PART 4

Calendar No. 728

94TH CONGRESS
2D SESSION

S. RES. 400

IN THE SENATE OF THE UNITED STATES

MAY 12, 1976

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. ROTH (for himself and Mr. HUDDLESTON) to S. Res. 400, a resolution to establish a Standing Committee on Intelligence Activities, and for other purposes, viz: Strike section 8 (d) and insert in lieu thereof:

(d) The Select Committee on Standards and Conduct shall have the duty to investigate alleged disclosures of intelligence information by a Member, officer, or employee of the Senate in violation of subsection (c). At the request of five of the members of the Committee on Intelligence Activities or sixteen Members of the Senate, the Select Committee on Standards and Conduct shall investigate any such alleged disclosure of intelligence information and report its findings and recommendations to the Senate.

Amdt. No. 1642

Amdt. No. 1642 Calendar No. 728

94TH CONGRESS
2D SESSION

S. RES. 400

AMENDMENT

Intended to be proposed by Mr. ROTH (for himself and Mr. HUDDLESTON) to S. Res. 400, a resolution to establish a Standing Committee on Intelligence Activities, and for other purposes.

MAY 12, 1976

Ordered to lie on the table and to be printed

Calendar No. 728

94TH CONGRESS
2D SESSION

S. RES. 400

IN THE SENATE OF THE UNITED STATES

MAY 12, 1976
Ordered to be printed

AMENDMENT
(IN THE NATURE OF A SUBSTITUTE)

Proposed by Mr. CANNON (for himself, Mr. ROBERT C. BYRD, Mr. MANSFIELD, Mr. HUGH SCOTT, Mr. PERCY, Mr. HATFIELD, Mr. RIBICOFF, Mr. CHURCH, Mr. MONDALE, Mr. BAKER, Mr. CRANSTON, Mr. PHILIP A. HART, Mr. HUDDLESTON, Mr. MORGAN, Mr. GARY HART, Mr. MATHIAS, Mr. SCHWEIKER, Mr. JAVITS, Mr. KENNEDY, Mr. DURKIN, Mr. ROTH, Mr. STEVENSON, Mr. BROOKE, Mr. BROCK, Mr. WEICKER, Mr. HUMPHREY, Mr. CLARK, and Mr. PELL) to S. Res. 400, a resolution to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes, viz: in lieu of the language intended to be substituted by the committee amendment insert the following:

That it is the purpose of this resolution to establish a new select committee of the Senate, to be known as the Select Committee on Intelligence, to oversee and make continuing

Amdt. No. 1643

studies of the intelligence activities and programs of the United States Government, and to submit to the Senate appropriate proposals for legislation and report to the Senate concerning such intelligence activities and programs. In carrying out this purpose, the Select Committee on Intelligence shall make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the Nation. It is further the purpose of this resolution to provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States.

SEC. 2. (a) (1) There is hereby established a select committee to be known as the Select Committee on Intelligence (hereinafter in this resolution referred to as the "select committee"). The select committee shall be composed of seventeen members appointed as follows:

(A) two members from the Committee on Appropriations;

(B) two members from the Committee on Armed Services;

(C) two members from the Committee on Foreign Relations;

(D) two members from the Committee on the Judiciary; and

(E) nine members from the Senate who are not members of any of the committees named in clauses (A) through (D).

(2) Members appointed from each committee named in clauses (A) through (D) of paragraph (1) shall be evenly divided between the two major political parties and shall be appointed by the President pro tempore of the Senate upon the recommendations of the majority and minority leaders of the Senate after consultation with their chairman and ranking minority member. Five of the members appointed under clause (E) of paragraph (1) shall be appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate and four shall be appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(3) The majority leader of the Senate and the minority leader of the Senate shall be ex officio members of the select committee but shall have no vote in the committee and shall not be counted for purposes of determining a quorum.

(b) No Senator may serve on the select committee for more than nine years of continuous service, exclusive of service by any Senator on such committee during the Ninety-

fourth Congress. To the greatest extent practicable, one-third of the Members of the Senate appointed to the select committee at the beginning of the Ninety-seventh Congress and each Congress thereafter shall be Members of the Senate who did not serve on such committee during the preceding Congress.

(c) At the beginning of each Congress, the Members of the Senate who are members of the majority party of the Senate shall elect a chairman for the select committee, and the Members of the Senate who are from the minority party of the Senate shall elect a vice chairman for such committee. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. Neither the chairman nor the vice chairman of the select committee shall at the same time serve as chairman or ranking minority member of any other committee referred to in paragraph 6 (f) of rule XXV of the Standing Rules of the Senate.

(d) For the purposes of paragraph 6 (a) of rule XXV of the Standing Rules of the Senate, service of a Senator as a member of the select committee shall not be taken into account.

SEC. 3. (a) There shall be referred to the select committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

(1) The Central Intelligence Agency and the Director of Central Intelligence.

(2) Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.

(3) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

(4) Authorizations for appropriations, both direct and indirect, for the following:

(A) The Central Intelligence Agency and Director of Central Intelligence.

(B) The Defense Intelligence Agency.

(C) The National Security Agency.

(D) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(E) The intelligence activities of the Department of State.

(F) The intelligence activities of the Federal

Bureau of Investigation, including all activities of the Intelligence Division.

(G) Any department, agency, or subdivision which is the successor to any agency named in clause (A), (B), or (C); and the activities of any department, agency, or subdivision which is the successor to any department, agency, bureau, or subdivision named in clause (D), (E), or (F) to the extent that the activities of such successor department, agency, or subdivision are activities described in clause (D), (E), or (F).

(b) Any proposed legislation reported by the select committee, except any legislation involving matters specified in clause (1) or (4) (A) of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within thirty days after the day on which such proposed legislation is referred to such standing committee; and any proposed legislation reported by any committee, other than the select committee, which contains any matter within the jurisdiction of the select committee shall, at the request of the chairman of the select committee, be referred to the select committee for its consideration of

such matter and be reported to the Senate by the select committee within thirty days after the day on which such proposed legislation is referred to such committee. In any case in which a committee fails to report any proposed legislation referred to it within the time limit prescribed herein, such committee shall be automatically discharged from further consideration of such proposed legislation on the thirtieth day following the day on which such proposed legislation is referred to such committee unless the Senate provides otherwise. In computing any thirty-day period under this paragraph there shall be excluded from such computation any days on which the Senate is not in session.

(c) Nothing in this resolution shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee.

(d) Nothing in this resolution shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the Senate to obtain full and prompt access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

SEC. 4. (a) The select committee, for the purposes of accountability to the Senate, shall make regular and periodic

reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters deemed by the select committee to require the immediate attention of the Senate or such other committee or committees. In making such reports, the select committee shall proceed in a manner consistent with section 8 (c) (2) to protect national security.

(b) The select committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation for public dissemination. Such reports shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interests. An unclassified version of each report shall be made available to the public by the select committee. Nothing herein shall be construed as requiring the disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the sources of information on which such reports are based.

(c) On or before March 15 of each year, the select committee shall submit to the Committee on the Budget of the Senate the views and estimates described in section 301 (c)

of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

SEC. 5. (a) For the purposes of this resolution, the select committee is authorized in its discretion (1) to make investigations into any matter within its jurisdiction, (2) to make expenditures from the contingent fund of the Senate, (3) to employ personnel, (4) to hold hearings, (5) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (6) to require, by subpena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (7) to take depositions and other testimony, (8) to procure the service of individual consultants or organizations thereof, in accordance with the provisions of section 202 (i) of the Legislative Reorganization Act of 1946, and (9) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The chairman of the select committee or any member thereof may administer oaths to witnesses.

(c) Subpenas authorized by the select committee may be issued over the signature of the chairman, the vice chairman, or any member of the select committee designated by

the chairman, and may be served by any person designated by the chairman or any member signing the subpena.

SEC. 6. No employee of the select committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing and under oath to be bound by the rules of the Senate (including the jurisdiction of the Select Committee on Standards and Conduct) and of such committee as to the security of such information during and after the period of his employment or contractual agreement with such committee; and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

SEC. 7. The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which

violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

SEC. 8. (a) The select committee may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the select committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this section.

(b) (1) In any case in which the select committee votes to disclose publicly any information which has been classified under established security procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, such committee shall notify the President of such vote.

(2) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President notifies the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is vital and outweighs any public interest in the disclosure.

(3) If the President notifies the select committee of his objections to the disclosure of such information as provided in paragraph (2), such committee may, by majority vote, refer the question of the disclosure of such information to the Senate for consideration. Such information shall not thereafter be publicly disclosed without leave of the Senate.

(4) Whenever the select committee votes to refer the question of disclosure of any information to the Senate under paragraph (3), the chairman shall, not later than the first day on which the Senate is in session following the day on which the vote occurs, report the matter to the Senate for its consideration.

(5) One hour after the Senate convenes on the fourth day on which the Senate is in session following the day on which any such matter is reported to the Senate, or at such earlier time as the majority leader and the minority

leader of the Senate jointly agree upon in accordance with section 133(f) of the Legislative Reorganization Act of 1946, the Senate shall go into closed session and the matter shall be the pending business. In considering the matter in closed session the Senate may—

(A) approve the public disclosure of all or any portion of the information in question, in which case the committee shall publicly disclose the information ordered to be disclosed,

(B) disapprove the public disclosure of all or any portion of the information in question, in which case the committee shall not publicly disclose the information ordered not to be disclosed, or

(C) refer all or any portion of the matter back to the committee, in which case the committee shall make the final determination with respect to the public disclosure of the information in question.

Upon conclusion of the consideration of such matter in closed session, which may not extend beyond the close of the ninth day on which the Senate is in session following the day on which such matter was reported to the Senate, or the close of the fifth day following the day agreed upon jointly by the majority and minority leaders in accordance with section 133(f) of the Legislative Reorganization Act of 1946 (whichever the case may be), the Senate shall immediately

vote on the disposition of such matter in open session, without debate, and without divulging the information with respect to which the vote is being taken. The Senate shall vote to dispose of such matter by one or more of the means specified in clauses (A), (B), and (C) of the second sentence of this paragraph. Any vote of the Senate to disclose any information pursuant to this paragraph shall be subject to the right of a Member of the Senate to move for reconsideration of the vote within the time and pursuant to the procedures specified in rule XIII of the Standing Rules of the Senate, and the disclosure of such information shall be made consistent with that right.

(c) (1) No information in the possession of the select committee relating to the lawful intelligence activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to subsection (a) or (b) of this section, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The select committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other

Member of the Senate. Whenever the select committee makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee which, receives any information under this subsection, shall disclose such information except in a closed session of the Senate.

(d) It shall be the duty of the Select Committee on Standards and Conduct to investigate any alleged disclosure of intelligence information by a Member, officer, or employee of the Senate in violation of subsection (c) and to report thereon to the Senate.

(e) Upon the request of any person who is subject to any such investigation, the Select Committee on Standards and Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of Member, or removal from office or

employment or punishment for contempt, in the case of an officer or employee.

SEC. 9. The select committee is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

SEC. 10. Upon expiration of the Select Committee on Governmental Operations With Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress, all records, files, documents, and other materials in the possession, custody, or control of such committee, under appropriate conditions established by it, shall be transferred to the select committee.

SEC. 11. (a) It is the sense of the Senate that the head of each department and agency of the United States should keep the select committee fully and currently informed with respect to intelligence activities, including any significant anticipated activities, which are the responsibility of or engaged in by such department or agency: *Provided,* That this does not constitute a condition precedent to the implementation of any such anticipated intelligence activity.

(b) It is the sense of the Senate that the head of any department or agency of the United States involved in any intelligence activities should furnish any information or document in the possession, custody, or control of the depart-

ment or agency, or person paid by such department or agency, whenever requested by the select committee with respect to any matter within such committee's jurisdiction.

(c) It is the sense of the Senate that each department and agency of the United States should report immediately upon discovery to the select committee any and all intelligence activities which constitute violations of the constitutional rights of any person, violations of law, or violations of Executive orders, Presidential directives, or departmental or agency rules or regulations; each department and agency should further report to such committee what actions have been taken or are expected to be taken by the departments or agencies with respect to such violations.

SEC. 12. Subject to the Standing Rules of the Senate, no funds shall be appropriated for any fiscal year beginning after September 30, 1976, with the exception of a continuing bill or resolution, or amendment thereto, or conference report thereon, to, or for use of, any department or agency of the United States to carry out any of the following activities, unless such funds shall have been previously authorized by a bill or joint resolution passed by the Senate during the same or preceding fiscal year to carry out such activity for such fiscal year:

(1) The activities of the Central Intelligence Agency and the Director of Central Intelligence.

(2) The activities of the Defense Intelligence Agency.

(3) The activities of the National Security Agency.

(4) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(5) The intelligence activities of the Department of State.

(6) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

SEC. 13. (a) The select committee shall make a study with respect to the following matters, taking into consideration with respect to each such matter, all relevant aspects of the effectiveness of planning, gathering, use, security, and dissemination of intelligence:

(1) the quality of the analytical capabilities of United States foreign intelligence agencies and means for integrating more closely analytical intelligence and policy formulation;

(2) the extent and nature of the authority of the departments and agencies of the executive branch to engage in intelligence activities and the desirability of developing charters for each intelligence agency or department;

(3) the organization of intelligence activities in the executive branch to maximize the effectiveness of

the conduct, oversight, and accountability of intelligence activities; to reduce duplication or overlap; and to improve the morale of the personnel of the foreign intelligence agencies;

(4) the conduct of covert and clandestine activities and the procedures by which Congress is informed of such activities;

(5) the desirability of changing any law, Senate rule or procedure, or any Executive order, rule, or regulation to improve the protection of intelligence secrets and provide for disclosure of information for which there is no compelling reason for secrecy;

(6) the desirability of establishing a standing committee of the Senate on intelligence activities;

(7) the desirability of establishing a joint committee of the Senate and the House of Representatives on intelligence activities in lieu of having separate committees in each House of Congress, or of establishing procedures under which separate committees on intelligence activities of the two Houses of Congress would receive joint briefings from the intelligence agencies and coordinate their policies with respect to the safeguarding of sensitive intelligence information;

(8) the authorization of funds for the intelligence activities of the Government and whether disclosure of

any of the amounts of such funds is in the public interest; and

(9) the development of a uniform set of definitions for terms to be used in policies or guidelines which may be adopted by the executive or legislative branches to govern, clarify, and strengthen the operation of intelligence activities.

(b) The select committee may, in its discretion, omit from the special study required by this section any matter it determines has been adequately studied by the Select Committee To Study Governmental Operations With Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress.

(c) The select committee shall report the results of the study provided for by this section to the Senate, together with any recommendations for legislative or other actions it deems appropriate, no later than July 1, 1977, and from time to time thereafter as it deems appropriate.

SEC. 14. (a) As used in this resolution, the term "intelligence activities" includes (1) the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United

States, and other activity which is in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement or other association; (4) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States, and covert or clandestine activities directed against such persons. Such term does not include tactical foreign military intelligence serving no national policymaking function.

(b) As used in this resolution, the term "department or agency" includes any organization, committee, council, establishment, or office within the Federal Government.

(c) For purposes of this resolution, reference to any department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in intelligence activities now conducted by the department, agency, bureau, or subdivision referred to in this resolution.

SEC. 15. For the period from the date this resolution is agreed to through February 28, 1977, the expenses of the select committee under this resolution shall not exceed $275,000, of which amount not to exceed $30,000 shall be available for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202 (i) of the Legislative Reorganization Act of 1946. Expenses of the select committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SEC. 16. Nothing in this resolution shall be construed as constituting acquiescence by the Senate in any practice, or in the conduct of any activity, not otherwise authorized by law.

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AMENDMENT

(IN THE NATURE OF A SUBSTITUTE)

Proposed by Mr. CANNON (for himself, Mr. ROBERT C. BYRD, Mr. MANSFIELD, Mr. HUGH SCOTT, Mr. PERCY, Mr. HATFIELD, Mr. RIBICOFF, Mr. CHURCH, Mr. MONDALE, Mr. BAKER, Mr. CRANSTON, Mr. PHILIP A. HART, Mr. HUDDLESTON, Mr. MORGAN, Mr. GARY HART, Mr. MATHIAS, Mr. SCHWEIKER, Mr. JAVITS, Mr. KENNEDY, Mr. DURKIN, Mr. ROTH, Mr. STEVENSON, Mr. BROOKE, Mr. BROCK, Mr. WEICKER, Mr. HUMPHREY, Mr. CLARK, and Mr. PELL) to S. Res. 400, a resolution to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

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S. RES. 400

IN THE SENATE OF THE UNITED STATES

MAY 13, 1976

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. TAFT to amendment numbered 1643 to S. Res. 400, a resolution to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes, viz:

On page 4, line 20, delete the word "not".

Amdt. No. 1645

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S. RES. 400

AMENDMENT

Intended to be proposed by Mr. TAFT to amendment numbered 1643 to S. Res. 400, a resolution to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

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S. RES. 400

IN THE SENATE OF THE UNITED STATES

MAY 13, 1976

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. TAFT to amendment numbered 1643 to S. Res. 400, a resolution to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes, viz: On page 6, line 12, delete paragraph (b) and substitute the following provision:

(b) Any proposed legislation or other intelligence matter considered by the select committee, except any legislation involving matters specified in clause (1) or (4) (A) of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall be communicated to the chairman and ranking member, respectively, of such standing committee, and at the request of the chairman of such standing committee any proposed legislation shall be referred to such standing committee for its con-

Amdt. No. 1646

such date was a member of more than one committee of the classes described in the second sentence of paragraph 6 (a) of rule XXV of the Standing Rules of the Senate may serve on a number of committees within those classes equal to the number of committees of those classes on which he was serving on such day. No Senator who is a member of more than two standing committees named in paragraph 2 of rule XXV of the Standing Rules of the Senate may serve on the Select Committee on Intelligence Activities.

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2D SESSION

S. RES. 400

AMENDMENT

Intended to be proposed by Mr. TAFT to amendment numbered 1643 to S. Res. 400, a resolution to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

MAY 13, 1976

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IN THE SENATE OF THE UNITED STATES

MAY 13, 1976

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. TAFT to amendment numbered 1643 to S. Res. 400, a resolution to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes, viz:

On page 8, lines 13 and 14, delete the term "for public dissemination".

On page 8, line 17, delete all after the period and delete all of line 18.

Amdt. No. 1647

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2D SESSION

S. RES. 400

AMENDMENTS

Intended to be proposed by Mr. TAFT to amendment numbered 1643 to S. Res. 400, a resolution to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

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S. RES. 400

IN THE SENATE OF THE UNITED STATES

MAY 13, 1976

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. NELSON to the amendment (in the nature of a substitute) numbered 1643 submitted by Mr. CANNON (for himself and others) to S. Res. 400, a resolution to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes, viz: Strike out subsection (d) of section 2 and insert in lieu thereof the following:

(d) For the purposes of the second sentence of paragraph 6(a) of rule XXV of the Standing Rules of the Senate, membership on the Select Committee on Intelligence Activities shall not be taken into account until that date occurring during the first session of the Ninety-sixth Congress, upon which the appointment of the majority and minority party members of the standing committees of the Senate is initially completed. Each Senator who on the day preceding

Amdt. No. 1648

such date was a member of more than one committee of the classes described in the second sentence of paragraph 6 (a) of rule XXV of the Standing Rules of the Senate may serve on a number of committees within those classes equal to the number of committees of those classes on which he was serving on such day. No Senator who is a member of more than two standing committees named in paragraph 2 of rule XXV of the Standing Rules of the Senate may serve on the Select Committee on Intelligence Activities.

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S. RES. 400

AMENDMENT

Intended to be proposed by Mr. NELSON to the amendment (in the nature of a substitute) numbered 1643 submitted by Mr. CANNON (for himself and others) to S. Res. 400, a resolution to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

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S. RES. 400

IN THE SENATE OF THE UNITED STATES

MAY 13, 1976

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. TOWER (for himself, Mr. STENNIS, Mr. GOLDWATER, and Mr. THURMOND) to the amendment (in the nature of a substitute) numbered 1643 submitted by Mr. CANNON (for himself and others) to S. Res. 400, a resolution to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes, viz:

On page 5 strike out paragraphs (2) and (3) of section 3(a) of the amendment and insert in lieu thereof the following:

"(2) Intelligence activities of all other departments and agencies of the Government except the Defense Intelligence Agency, the National Security Agency, and other agencies and subdivisions of the Department of Defense.

"(3) The organization or reorganization of any department or agency of the Government, other than the Depart-

Amdt. No. 1649

ment of Defense, to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

Strike out clauses (B), (C), and (D) of paragraph (4) of section 3 (a) of the amendment and redesignate clauses (E) and (F) as clauses (B) and (C), respectively.

Strike out clause (G) of paragraph (4) of section 3 (a) of the amendment and insert in lieu thereof the following:

"(D) Any department, agency, or subdivision which is the successor to the agency named in clause (A); and the activities of any department, agency, or subdivision which is the successor to any department or bureau named in clause (B) or (C), to the extent the activities of such successor department, agency, or subdivision are described in clause (B) or (C).".

Strike out the period in section 4 (c) and insert in lieu thereof "as specified in section 3 (a).".

Strike out clauses (2), (3), and (4) of section 12 and redesignate clauses (5) and (6) as clauses (2) and (3), respectively.

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Amdt. No. 1649 Calendar No. 728

94TH CONGRESS
2D SESSION

S. RES. 400

AMENDMENTS

Intended to be proposed by Mr. TOWER (for himself, Mr. STENNIS, Mr. GOLDWATER, and Mr. THURMOND) to the amendment (in the nature of a substitute) numbered 1643 submitted by Mr. CANNON (for himself and others) to S. Res. 400, a resolution to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

MAY 13, 1976

Ordered to lie on the table and to be printed

STATINTL

INDEX OF DEBATE

(Pages and Dates of the Congressional Record)

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2 7085 - 5/12 - Ribicoff introduction - principles.

√ S 7087 - 5/12 - Explanation Section by Section of Compromise S Res 400.

S 7090 - 5/12 - Summary of S Res 400 as reported out by Government Operations Committee.

S 7092 - 5/12 - Summary of S Res 400 substitute.

S 7096 - 5/12 - Pell-Ribicoff Colloquy on Concurrent Jurisdiction.

S 7256 - 5/13 - Text of Cederberg H Res. for a Joint Committee.

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S 7262 - 5/13 - Church on the Resolution.

S 7270 - 5/13 - Hart on Notification of Covert Actions.

S 7340 - 5/17 - Percy on Concentrated Oversight.

S 7344 - 5/17 - Inclusion of David Kahn article on USA in NYT Mag. 5/16/76 - "Big Ear on Big Brother" inserted by Mondale.

S 7353 - 5/17 - Thurmond on Security and Jurisdiction.

S 7354 - 5/17 - Thurmond Insertion of testimony on S Res 400 before Armed Services Committee - Ellsworth et. al.

S 7361 - 5/17 - Taft on standing committees vs select committee - Colloquy with Ribicoff on ability of standing committee member of Select Committee to inform his parent committee.

S 7409 - 5/18 - Ribicoff on term of serving on Select Committee.

S 7535 - 5/19 - Stennis-Tower effort to exclude DOD intelligence activities from oversight by new committee.

S 7438 - 5/19 - Nunn-Ribicoff colloquy - on authorization authority and disclosure and intelligence manpower.

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S 7547 - 5/19 - Cranston on Disclosure - Ribicoff on Presidential restraint on using "National Security".

S 7553 - 5/19 - Stennis in defense of the existing system Vote on Stennis-Tower Amendment - (#1649) S-7555.63-31.

S 7559 - 5/19 - Vote on Cannon Amendment (no. 1643) 87-7.

S 7559 - 5/19 - Hollings on a Commission rather than a committee.

S 7563 - 5/19 - Text of S Res 400 - Final Version - and the vote - 72-22 with 6 not voting.

DIGEST OF THE SENATE DEBATE ON SENATE RESOLUTION 400
12-19 MAY 1976

Because of the numerous amendments proposed to Resolution 400 in the debate before the Senate Rules Committee after its being reported out by the Government Operations Committee, and because the final version of S Res 400 was arrived at by a compromise among Senate leaders in camera, there is no record of hearings on the final version nor a committee report to interpret the provisions of the bill. The legislative history of the resolution thus lies in the debate that followed the compromise version - with the result that many points of procedure remain obscured and are possibly subject to differences among members of the new Select Committee on Intelligence as the Committee begins its operations.

There follows an effort to identify key interpretations of the provisions of S. Res 400 as they emerged in the process of debate. (Numbers and dates refer to pages in the Congressional Record covering the debate 12-19 May 1976):

JURISDICTION

Hruska: Argues strongly against inclusion of FBI in the scope of the oversight committee. This divides jurisdiction with the Judiciary Committee. The FBI should be viewed as integral part of the Justice Department under the Attorney General (S-7094-5/12).

Pell-Ribicoff Colloquy on Concurrent Jurisdiction: Pell fears the Hughes-Ryan Amendment will be superseded by the new Committee, restricting the Foreign Relations Committee's access to Presidential reports on covert action - seeks clarification. Ribicoff assures that S Res 400 does not repeal the Hughes-Ryan Amendment - "as a resolution it could not do so". The jurisdiction of the Foreign Relations Committee is not changed by S Res 400. Legislation bearing primarily on foreign policy, rather than intelligence, would go to the Foreign Relations Committee, with the new committee having the right to request sequential referral - and vice versa if intelligence were primary in proposed legislation. Creation of the new committee should not be used by the intelligence community to deny a standing committee any information on any matter with which the committee is concerned" (S-7096-7-5/12).

Mondale: We should have a single committee with primary legislative jurisdiction and for annual authorization of budgets - with concurrent jurisdiction with Judiciary, Armed Services and Foreign Relations. Annual budget authorization is essential to oversight. Only if Congress can cross agency lines can it establish interactions among agencies, obtain necessary information without resorting to subpoenas, and take action where secrecy is necessary (S-7259-5/13).

Church: Necessary that the oversight committee have annual authorization authority over CIA and all intelligence elements of other departments and agencies. "The power of the purse is the most effective means that the legislature can have to assure that the will of Congress is observed." The new committee for the first time, can consider all budgetary requests of the national intelligence community on an annual basis. (S-7263-5/13)

Eastland: Argues against inclusion of the FBI in the jurisdiction of the new oversight committee on grounds of the differences between domestic and foreign intelligence and the fractionating of consideration of the Justice Department (S-7265-5/13). Argues against the whole of S Res 400 as too insecure to protect intelligence operations.

Cranston: The Committee will have jurisdiction throughout the national intelligence community - especially in annual authorization of funds which should help in fiscal and organizational planning in the Executive Branch. Stresses sequential referral to stimulate other committees to examine intelligence activities. But there is a major exception: the exclusive jurisdiction of the new Committee over CIA, a good measure to end the Armed Services control of a civilian agency. (S-7267-5/13)

Weicker: Objects to the procedures for appointing members from the standing committees - a continuation of previous failures to carry out oversight (S-7276-5/13). Cannon's amendment to force consultation with the chairmen of the standing committees as to their members to be appointed to the oversight committee passed 75-17 + 8 not voting.

Symington: Hopes for Foreign Relations and Armed Services to jointly review national intelligence in all its ramifications since 95% of all our intelligence in peacetime has to do with foreign relations as against military operations (S-7281-5/13).

Percy: Argues for inclusion of Defense intelligence activities in the jurisdiction of the new committee on grounds that Defense accounts for nearly 90% of US spending on intelligence. It would defeat the essence of the compromise on concurrent jurisdiction and return oversight to the standing committees. Believes that any Senator, whether or not he sits on the oversight committee, can get the information he needs from intelligence, and that, even though NSA and DIA activities are sensitive, the Committee must go into them for management efficiency, duplication and the value of the end product. Argues against fractionalized responsibility for oversight on the basis of past oversight performance. Argues for strict legislative charters for such as NSA and Army intelligence to prevent wrongdoing. (S-7340-5/17)

Mondale: Argues against Stennis-Tower amendment which would remove all DOD intelligence activities from the oversight of the new Committee. DIA was involved in covert action (Track 2 in Chile); NSA was involved in domestic surveillance [NYT Magazine 5/16/76 - Kahn-Big Ear on Big Brother]; Army was involved in spying on innocent Americans and paramilitary operations. We must have defense within the law. (S-7343-5/17)

Taft: Questions how a chairman of a standing committee can know what is before the Select Committee so to ask for referral - cites the Armed Services Committee testimony. Hart reminds Taft that Sec 4(a) calls for the Select Committee to call to the attention of the Senate or an appropriate committee any matter requiring attention. Taft still is concerned that informing the standing committees is up to a judgment of the select committee. Ribicoff effort to reassure Taft. Sec 4(a) already requires prompt communication by the select committee to the appropriate standing committee, but is concerned that "any matter" could be burdensome to the new committee, so prefers existing language in 4(a) as it stands - and 3(d) calls for "nothing in this resolution shall be construed as....changing the authority of any standing committee...to obtain full and prompt access to the product of the intelligence activities...relevant to a matter of otherwise in the jurisdiction of such a committee". Ribicoff stresses sequential referral and the need for comity among the Select Committee and the standing committees and the Executive Branch. Taft is still concerned whether the members of the Armed Services Committee on the Select Committee can communicate information they obtain on the Select Committee to the Armed Services Committee Chairman and Ranking Minority Member. Ribicoff feels the members from the standing committees will determine proper rules for such informing. Percy agrees and feels that procedures are adequate for making certain that information will be transmitted to the appropriate committees, but sees the Taft Amendment (S Amend. 1646) would require - in the stipulation "any matter" - too much reporting by the Select Committee of matters not requiring concurrent legislative jurisdiction and which are sensitive and would reduce the independence of the Select Committee. Taft continues concerned that a member of the Select Committee from a standing committee would be in a conflict of interest position in informing the chairman or other members of his parent committee - sees his amendment as correcting that conflict of interest. Ribicoff insists that when a matter of substance comes to the Select Committee it then will go over to the appropriate standing committee and amends the resolution to make that sure, with Tafts and Percy's agreement. (S-7361-5/17)

Taft: Concerned that the Select Committee is a "B" committee - one involved with secondary matters. Is intelligence not a critical matter for the Congress? Members will avoid serving on an add-on committee which will prevent the best minds being available for judgments on intelligence. Fears the Staff will become the real experts on intelligence and thus become the real Select Committee and the dominant, un-overseen, force in the intelligence activities of the US. (S-7408-5/18)

Tower and Stennis: Effort to amend to exclude DOD agencies from the jurisdiction of the new Select Committee on the grounds it is impossible to separate the Defense intelligence budget from other Defense appropriations. Young opposes S Res 400 as creating a committee of excessive membership and staff - a major security hazard. (S-7534-5/19) Ribicoff strongly opposes (S-7537-5/19) - the new committee must have concurrent jurisdiction over DOD activities because Defense is the primary collector of national intelligence with 80-90% of the intelligence expenditures; it is impossible to separate civilian and military intelligence agencies in legislative and fiscal considerations; and the interests of the Armed Services Committee are adequately protected by clauses in Sec 3(b), 3(c), 3(d) and 4(a) as to notification, informing and investigation of DOD intelligence activities. Tactical intelligence remains solely within the jurisdiction of the Armed Services Committee; the new committee will have jurisdiction only over that part of DOD intelligence activities that provide national intelligence information. The distinction between tactical and national intelligence is already well established by EO 11905 and its charter for the CFI and by the Church Committee Report. Yet, as Ellsworth noted, there are grey areas between the two. Definition of what is spent on tactical and national intelligence intelligence is one of the first tasks of the new committee. Tower is only concerned about legislative authority, not oversight. Ribicoff reminds that there is shared legislative functions and that the standing committees are represented.

Nunn-Ribicoff Colloquy: [See Security and Disclosure] - On intelligence manpower - who would authorize. Ribicoff sees Armed Services as first reference, with the new committee in sequential referral, depending on the view of the Parliamentarian. Admits grey areas in the legislation requiring a working out between the new committee and the standing committees. (S-7438-5/19)

Thurmond: Continues to argue separation of Armed Services from consideration by the Select Committee (S-7545-5/19) - with illustrations of responsibility to SecDef and the services of DIA, NSA, the Service Intelligence Agencies and overlap with service budgets - how to charge costs attributable to intelligence in military operations? Again raises risks of expanded

disclosure and urges avoidance of new layers of supervision. Notes the problem of coordination with the House on appropriations. (S-7545-5/19)

Huddleston: Opposes the Stennis-Tower amendment removing DOD intelligence activities from the jurisdiction of the new Committee. "Oversight without legislative participation is toothless oversight". Defense constitutes 80-90% of intelligence expenditures and must remain in the oversight of the new Committee. (S-7549-5/19)

Goldwater: Supports Stennis-Tower amendment to give Armed Services sole jurisdiction to prevent leaks and to afford concentration on military intelligence. "Create a committee to take care of abuses of the American people, but allow military intelligence to go on as it has in the past". A 15-man committee will not conceal covert action - so useful because it avoids wars. (S-7550-5/19)

Morgan: Disagrees with Stennis-Tower amendment. Believes it possible to separate DOD intelligence activities contributing to national intelligence from tactical intelligence. DOD already makes this distinction in programs submitted to Congress for budget authorization. The new committee would have concurrent jurisdiction over all DOD agencies and programs created for national intelligence functions, and the Armed Services would retain sole jurisdiction over those intelligence activities that serve military commanders. It would be impossible for the new committee to exercise effective oversight if it cannot oversee DOD activities. Fears that if the Armed Services Committee proves more favorable to intelligence activities, the tendency will be to let the military handle more and more intelligence operations.

Stennis: Fears for military intelligence appropriations since there is no parallel committee on intelligence in the House. (S-7551-5/19)

Symington: Disagrees with the Stennis-Tower amendment - it would drown CIA which is the only brake on DOD having an exclusive right to define threats to national security. It would end civilian supervision of intelligence, 90% of which is a matter for the Foreign Relations Committee. (S-7551-5/19)

Church: Insists the new committee have concurrent jurisdiction over DOD intelligence. Repeats previous anti-Stennis amendment arguments. The new committee will have jurisdiction only over national intelligence. We need a Committee that can embrace all intelligence to cure the piecemeal oversight of the past. (S-7552-5/19)

Tower: Fears the new committee will create more problems than it solves, particularly regarding clandestine operations. Foreign confidence in our intelligence services is already damaged and foreign services are less disposed to cooperate with us. Fears the new committee means proliferation in the disclosure of sensitive information. The people fear we have disclosed too much already, with adverse impact on national security. (S-7552-5/19)

Stennis: Supports the Stennis-Tower amendment - objects to breaking Defense intelligence out of the Defense budget, sees proliferation of involvement in sensitive activities, desires strengthening of military intelligence, asserts the amendment will not reduce the power of the new committee but will preserve regular Defense authorization procedures, claims that abuses are few in the military intelligence activities, fears additional disclosures of sensitive information in separate authorizations. Argues that the new committee is unfitted to handle Defense intelligence matters. (S-7553-5/19)

Stennis-Tower Amendment (no. 1649) defeated 63-31 with 6 not voting.

Byrd: Supports the Cannon compromise - urges study by the Senate Select Study Committee - sees proliferation of involvement and risks of disclosure - urges a joint committee with the House to handle as broad a matter as intelligence - cites the Cederberg resolution and suggests the creation of a Senate committee would foreclose a joint committee. (S-7556-5/19)

Kennedy: Supports the Cannon compromise. Cites vast abuses of power by intelligence in the past - calls for Congressional charters for the agencies and guidelines for their activities, particularly in the area of electronic surveillance. S Res 400 provides the means to fulfill the Senate's obligations to provide control and guidance over the Executive Branch's intelligence activities. Believes the new committee must have jurisdiction over the FBI to check its documented abuses, and the DOD activities as well, since it is also involved in domestic intelligence activities. (S-7557-5/19)

SECURITY AND DISCLOSURE

Huddleston: Security restrictions on members and staff will go far to prevent security considerations from impeding the intelligence community dealing frankly with Congress. (S-7094-5/12)

Baker: Objects to the 9-day limit (Sec 8c) on debate on disclosure. Believes that a serious matter of releasing classified information over the objection of the President should have full and complete debate, but welcomes the requirement for a vote of the full Senate on disclosure. (S-7261-5/13)

Church: The proper role of secrecy in a democracy must be carefully addressed. Those who argue to keep a matter secret should have the burden of proof to show why a secret should be withheld from public scrutiny. Such questions should be debated by the full Senate. Votes that there is no agreement as to what a valid national secret is and that the Senate has no procedure to decide on matters classified secret by the Executive Branch. Argues that the Senate should address violation of disclosure rules and that the Senate, once it sets rules, should impose them on improper disclosure and assure violations are properly dealt with. (S-7263-5/13)

Cannon: "We do have a responsibility among ourselves to be sure that information that should be kept classified is kept classified". We have the procedure to declassify what the Senate feels should be declassified but we must look after the security of the country. (S-7265-5/13)

Cranston: Objects to provision for Presidential objection to disclosure as an injection of the Executive Branch into the activities of the Legislative. Also objects to a Presidential representative attending closed committee sessions as a bad precedent. Congress is not invited to sit in on NSC or USIB meetings. Hopes for public disclosure of the lump sum of the intelligence budget, referring to Article I, Sec 9, clause 7 of the Constitution. (S-7261-5/13)

Roth: The only way the oversight committee is going to get the information it needs is to make certain the Executive Branch believes Congress can exert the self-discipline necessary to protect sensitive information. Supports the Huddleston Amendment (S-7273-5/13) providing for investigation by the ethics committee of any allegations of unauthorized disclosure. Is supported by Percy (S-7273-5/13). Huddleston fears harassment by the Executive in this and calls for responsible investigation of charges of violation by the ethics committee. (S-7273-5/13)

Abourezk: Re Sec 8 of S Res 400: - re committee action by majority vote on Presidential objection to disclosure. Stresses fear that disclosure is up to the full Senate, setting dangerous precedents: the Executive classification system will be applied to Congress, surrendering Congress' independent power to classify or not, and affect every committee in Congress; the Executive can control Legislative decision on declassification, robbing the Senate of its power to operate - a dangerous usurpation of power. Calls for cooperative negotiation on matters of this kind. Presidential certification (that the threat to national security outweighs the public interest) promotes Executive refusal to negotiate with the committee, moving the matter to the full Senate - while the President is free to declassify as he sees fit politically. The administration has set up a public relations campaign to demonstrate that the Executive can protect secrets but the Congress cannot. The restrictions of Sec 8(c)(2) impose a bar to communication between members of the Committee and other Members of the Senate and inhibits "full and robust discussion" of important issues. (S-7277-5/13)

Ribicoff: Any Senator can use Rule XXXV(35) of the Senate Rules to bring to a closed session of the Senate a difference with the President over the disclosure of information, and the Senate can then make its will known. (S-7278-5/13)

Abourezk: Cites Pike Report as an example of how the Executive can suppress the release of a Congressional report to the public by parliamentary maneuvers. Abourezk Amendment (relating to majority vote of the Committee on disclosure and referral to the Senate) was moved to be tabled - this was passed 77-13 with 10 not voting - so it was tabled. (S-7280-5/13)

Taft: Concerned about security. More people have to be privy to sensitive information than in the past. Presses an amendment to Sec 4(b) on annual reports and their unclassified versions to be made public by the Committee. Cites Ellsworth in opposition before Stennis and Thurmond. Urges that such reports not be made public - including funds appropriated. Percy agrees. Ribicoff notes that Senate Rule XXXV permits any two Senators to raise the amount of funds appropriated, and the Senate could vote to disclose the amount appropriated. Taft notes that the language of the resolution does not require disclosure, but that disclosure of funds appropriated would be up to the committee and then the Senate, but urges the Senate to be aware of the dangers involved in giving aid to adversary intelligence services. Is supported by Allen. (S-7349-5/17) Urges, after colloquy with Brock, that public dissemination be left to the Senate or the committee. Ribicoff agrees, so does Percy.

Thurmond: Concerned about security with a large committee and with concurrent jurisdiction with four other committees - 50 or 60 staff people will be involved and a "vast proliferation of sensitive data" threatening our intelligence effectiveness. Concerned over prior notification, authorization fo funds by such a large committee which is sure to leak the members and the possibility that the full Senate could make public the most sensitive information - making the CIA an arm of Congress, rather than the President. Also fears release of information to other committees as the Select Committee may consider necessary. Argues for retention of oversight in the standing committees with qualified staffs. (S-7353-5/17) Inserts lengthy record of hearings on S Res 400 before the Armed Services Committee (S-7354-5/17). Ellsworth, primarily. Thurmond fears new committee will lead to much proliferation of disclosure.

Cranston: Proposes that the President be required to certify personally and in writing that the threat of disclosure poses a threat to national security interest such as to outweigh public interest in disclosure. (S-7413-5/18)

Weicker and Stennis and Huddleston: Re Welch and security problems to protect people in intelligence. (S-7534-5/19)

Nunn-Ribicoff Colloquy on Authorization and Disclosure: Nunn - is there any requirement for disclosure of the amount spent on intelligence? Ribicoff - no - S Res 400 does not define this matter. It is up to the new committee. (See Sec 12) - goes on to describe how the full Senate could continue to conceal expenditures for intelligence and, under Rule XXXV, go into closed session and debate the authorization. Assumes the Intelligence Committee would in comity allow standing committees full time to consider authorizations that affect them. (S-7538-5/19)

Weicker: Denounces Stennis-Tower Amendment as unconstitutional in violating Act I Sec 9 and as continuing the old concealment system. Tower replies that not every expenditure is involved and that intelligence costs must be kept secret. Despite Nunn, presses for public disclosure of a total figure for intelligence expenditures. Percy feels it possible to authorize funds for intelligence without public disclosure, with the debate in closed Senate proceedings. (S-7542-5/19)

Cranston: Colloquy on Disclosure - Ribicoff: The President would invoke grounds of national security only in the gravest cases - "a matter of gravity". Imagines a President would use such certification sparingly so as not to wear out his credibility with the Senate. Cranston: sees it up to Senate to determine whether the gravity of the matter (of disclosure) is sufficient to prevent disclosure. Ribicoff: Release would be permissable, without reference to the full Senate, only if

the material does not conform to the operational procedure of Presidential certification under Sec 8(b)(1) of S Res 400. (S-7547-5/19)

Stennis: Expresses fears of disclosure of sensitive collection capabilities and R&D and argues for the separation of DOD activities from oversight by the new committee. Opposes disclosure of budget figures - which the Senate has kept secret for years - and for good cause. (S-7548-5/19)

Nunn: Concerned over the possibility that the language of Sec 8 b 3 could permit the Committee to disclose information over the President's objection if it did not, by majority vote, submit the matter to the full Senate. Submits an amendment "The committee shall not publicly disclose such information without leave of the Senate". Ribicoff accepts. (S-7549-5/19)

Hollings: Sees danger in the new committee as involving 40 Senators and, if the House establishes a similar committee, some 200 members of the House being involved in sensitive activities. Urges a small bi-partisan commission of members of both Houses of Congress and 5 prominent non-government people to make periodic surveys of intelligence activities, with fundings to go to the Congress and the President.

Beall: Stresses importance of confidentiality in Select Committee activities, particularly with respect to intelligence personnel - his S-3242 providing for fines and imprisonment for identifying people in intelligence operations - currently pending before the Judiciary Committee. (S-7559-5/19)

Huddleston: There has been too much secrecy in the past, but this must not be used to abolish all secrecy or controls. Covert action is only a small part of intelligence, and its errors obscure the achievements of other parts of intelligence. Defends the Roth-Huddleston amendment for sanctions on un-authorized disclosures - to be investigated by the ethics committee and sanctions approved by the full Senate. Congress must discipline its own. (S-7560-5/19)

PRIOR APPROVAL AND COVERT ACTION

Percy: The Oversight Committee should not be in the position where it is asked for prior approval which would put the Members in a position of having been part and parcel of the original decision and thus unable to exercise proper oversight. (S-7091-5/12)

Goldwater: The President must have the ability to carry out covert actions - which offers a range of options between diplomatic notes and economic sanctions and outright war. But the Hughes-Ryan Amendment, requiring six Committees and over 50 Senators and 120 Congressmen and their staffs to receive notification of covert action, has about destroyed this capability. Argues for a single joint committee on the model of the Joint Atomic Energy Committee. Cites Cederberg Res in the House. (S-7256-5/13)

Baker: Did not intend, in inserting language that prior notification would not constitute a condition precedent to implementation of action, (Sec 11) that this requires prior approval, only prior consultation. (S-7261-5/13)

Church: Cites for "fully and currently informed" the Atomic Energy Act, Sec 202(d) as requiring prior legislative authorization of intelligence activities - which is essential for vigilant oversight and a means of providing the advice of Congress. (S-7263-5/13)

Cranston: See "Fully and Currently Informed". (S-7268-5/13) Notes that Sec 16 re acquiescence of the Senate in unlawful activity is to prevent CIA or any other intelligence agency as citing S Res 400 as authority to conduct covert operations.

Schweiker: Re "anticipated significant activities" - "while the Committee's consent would not be required before covert actions could be implemented, it is clear that the Committee must be provided advance notice about significant activities". And, as the Government Operations Committee noted, "it would be in the interest of sound national policy for the President to be apprised in advance if the committee is strongly opposed to any particular proposed activity". (S-7269-5/13)

Gary Hart: Re Sec 11(a) - considers Baker's language re "condition precedent to implementation" to be ambiguous. Traces legislative history of prior notification: Church - S-2893-13(c) 1/29/76 - called for the Executive to notify the committee prior to implementation of covert actions. Asks inclusion of S-2893 in the Record. S-2983 did not call for prior approval, only prior notice, and did not require notification of all covert actions, only "significant ones". The intent of 13(c) was to permit Congress to advise the President before significant CIA covert operations were begun. Activities heretofore submitted

to the 40 Committee are "significant" and would require prior notice to the committee. The Government Operations Committee defined as "significant" those activities which are "particularly costly" or which affect diplomatic, political or military relations with other nations. The Government Operations Committee did not envision a veto on any activity the new committee knew of in advance, but recognized that the President should know of the views of the committee on the action proposed. The President is not legally bound to notify the oversight committee since this action is a resolution, not a statute. It expresses the "sense of the Senate". The only statute going to notification is the Hughes-Ryan Amendment to the 1974 Foreign Assistance Act. The Senate must have prior notification of significant CIA covert operations so that it may advise the President; covert action is "too dangerous a tool to be used by the President without congressional consultation". Covert action cannot be used to circumvent debate and public accountability or as a Presidential "convenience". Cites Clifford as for joint Congressional and Executive decision making on covert action. Likewise Cy Vance - who rejected a Congressional veto, and Helms - who lfet Congressional approval was necessary to avoid subsequent repudiation by Congress. "It is the clear intent of the Senate that it be given advance notice of approved CIA covert operations before they are implemented". (S-7270-5/13)

Clark: Can we allow a policy of covert action to continue to interfere and violate laws of other nations wherever we think it useful? The resolution fails to cure this policy. (S-7276-5/13)

Thurmond: Testimony before the Armed Services Committee by Ellsworth - re no problem that the military will swallow CIA in the resource allocation process under the CFI. Fears that prior notification and the capacity of the Senate to leak will endanger the lives of those engaged in covert operations. "The President has to have some flexibility on when to move". (S-7355-5/17)

Pastore: Rejects CIA having to have approval from the Senate for actions it takes, but insists the Senate be informed - as per Sec 211 of the Atomic Energy Act (Sec 11 of S Res 400). Percy: The Senate must avoid taking over Executive responsibilities, but the President has agreed that the options and problems would be committed to writing and signed by a "top officer", himself, in extraordinary cases. (S-7545-5/19)

Goldwater: Fears a 15-man committee cannot conceal covert action - thus reviving a useful means of avoiding wars. (S-7550-5/19)

"FULLY AND CURRENTLY INFORMED"

Baker: Re Sec 11: wanted the "fully and currently informed" language to conform with the practice of the Joint Atomic Intelligence Committee precedent. Adds that he recommended the language "Provided that this does not constitute a condition precedent to the implementation of any anticipated intelligence activity". This was not intended to require prior approval before Executive Branch implementation, only prior consultation. (S-7261 - 5/13)

Church: The oversight committee must have the right to acquire necessary information - that it be "fully and completely informed". "The Executive Branch should be obligated to answer any requests made by the Committee for information within its jurisdiction". Cites the Atomic Energy Act Sec 202(d). (S-7263-5/13)

Cranston: Cites the importance of the proviso for keeping the Committee"fully and currently informed". "The new committee is to have access to any information within the possession of the agencies relating to any matter within the committee's jurisdiction". In combination with the Hughes-Ryan Amendment, this should provide a meaningful check on clandestine operations. This will make it possible to bar funds for operations such as Angola - Tunney Amendment 12/75. (S-7267-5/13)

Pastore: Cites the precedent of the Atomic Bomb and the Joint Committee on Atomic Energy for "fully and currently informed" - no leaks from the Committee - but rejects CIA having to come to the Senate for approval. (S-7545-5/19)

beef producers and consumers will be fostered by this legislation. I noted this morning at hearings before the Committee on Agriculture and Forestry that representatives of the Consumer Federation of America, as well as the major farm organizations, were present to testify in support of the Farmers Market Act and similar legislation which was introduced last year by Senator HUMPHREY and myself. At the hearings, Senator HUDDLESTON commented to the young lady from the Consumer Federation that he felt a growing awareness among consumer advocates of the difficulties faced by those who provide food and fiber for the United States. I think this is laudable, and absolutely necessary. We owe it not only to those in agriculture, but also those who are served by agriculture, to find ways in which cooperation and understanding can be developed.

Mr. President, this bill does just that, and I believe if for no other reason, it merits enactment. I would urge my colleagues to support the bill with me, for the benefit of American ranchers and consumers.

Mr. ABOUREZK. Mr. President, I am ready to yield back the remainder of my time.

Mr. ALLEN. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. STAFFORD). All time is yielded back. The question is on agreeing to the conference report on the Beef Research and Information Act. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from California (Mr. TUNNEY) and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE) and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The result was announced—yeas 65, nays 27, as follows:

[Rollcall Vote No. 175 Leg.]

YEAS—65

Allen	Goldwater	Mondale
Bartlett	Gravel	Moss
Bayh	Hansen	Nunn
Bellmon	Hart, Gary	Packwood
Bentsen	Hartke	Pearson
Brock	Haskell	Percy
Buckley	Hatfield	Randolph
Burdick	Helms	Roth
Byrd, Harry F., Jr.	Hollings	Scott, William L.
Cannon	Hruska	Sparkman
Chiles	Huddleston	Stafford
Clark	Humphrey	Stennis
Cranston	Jackson	Stevens
Culver	Johnston	Stone
Curtis	Laxalt	Symington
Dole	Leahy	Taft
Domenici	Long	Talmadge
Eastland	Magnuson	Thurmond
Fannin	Mansfield	Tower
Fong	McClellan	Young
Ford	McClure	
Garn	McGovern	
	Metcalf	

NAYS—27

Abourezk	Bumpers	Durkin
Beall	Byrd, Robert C.	Eagleton
Biden	Case	Glenn
Hart, Philip A.	Morgan	Ribicoff
Hathaway	Muskie	Schweiker
Javits	Nelson	Scott, Hugh
Kennedy	Pastore	Stevenson
Mathias	Pell	Weicker
McIntyre	Proxmire	Williams

NOT VOTING—8

Baker	Griffin	Montoya
Brooke	Inouye	Tunney
Church	McGee	

So the conference report was agreed to.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

ORDER FOR RECOGNITION OF SENATOR RIBICOFF

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the Senator from Nevada has completed his remarks the distinguished Senator from Connecticut (Mr. RIBICOFF) then be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, Senate Resolution 400, which the clerk will state.

The second assistant legislative clerk read as follows:

A resolution (S. Res. 400) to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

The Senate resumed the consideration of the resolution.

Mr. CANNON. Mr. President, before I get to discuss the history and action by the Committee on Rules and Administration on Senate Resolution 400, I state that several Senators, including myself, representing groups of Senators holding various points of view have been meeting and discussing the possibility of working out a compromise version. While our resolve might not be completely satisfactory to all parties, it is the best possible compromise we could reach. Later on I propose to offer this substitute as a proposed amendment in the nature of a substitute for the committee substitute as reported.

Mr. President, the Committee on Rules and Administration on April 29, 1976, reported Senate Resolution 400, to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes, with an amendment in the nature of a substitute for the resolution as referred to the committee, and an amendment to the title of the resolution. The title amendment reads "A resolution establishing a Select Committee on Intelligence."

The committee substitute would establish a permanent select, not a standing committee, on intelligence with oversight jurisdiction over the intelligence community but without legislative jurisdiction; it proposes to leave within the standing committees on Armed Services, Foreign Relations, the Judiciary, or any other committee their existing legislative jurisdiction with respect to intelligence activities.

The select committee would have subpena power, a staff, and funds to keep itself informed so as to equip itself to provide effective oversight of the intelligence community.

Before the committee voted to report the substitute amendment it had adopted numerous perfecting amendments to the resolution as opposed to the form in which it was referred to the Committee on Rules and Administration.

Some of those perfecting amendments were unanimously approved while others were agreed to by a bare majority vote. The amendments changed various parts of the resolution while leaving some portions thereof unamended although many of them were not favored by various members of the committee. Hence, when there were no further perfecting amendments to be offered to the resolution, the question was put on agreeing to a complete substitute amendment for the resolution, which was agreed to by a vote of 5 to 4.

The committee, both in the case of perfecting amendments to the resolution and the substitute therefor, proposed that the intelligence committee not be made a standing committee, but instead a select committee. The perfecting amendments approved by the committee before agreeing to the substitute proposed to give the select committee sequential, concurrent jurisdiction over the Central Intelligence Agency, the intelligence activities of all other departments and agencies of the Government, the organization and reorganization plans affecting intelligence activities within Government agencies, as well as authorization for appropriations for practically all such agencies.

The substitute for the resolution reported by the committee would not extend any legislative jurisdiction to the select committee. The composition of the select committee as approved by the Committee on Rules and Administration was virtually the same in both the amended version and the substitute therefor.

In my opinion, in observing the action taken by the Committee on Rules and Administration, the committee was very much concerned with, and emphasized Congressional oversight of the intelligence activities of the Administration but at the same time it was particularly concerned that national security secrets were not to be leaked or divulged to our enemies abroad. The Rules Committee wanted to establish a committee fortified with the powers to do a good job without doing harm to the operations of the intelligence agencies of the Government in carrying out their functions and duties for which they were created. The committee was particularly concerned to tighten up the provisions of the resolution for preventing the leakage of information as well as the provision authorizing the committee to make public classified information; it was the feeling of a majority of the committee that confidential and secret information should not be released by the committee but that the committee when requested by the administration or agencies thereof to keep certain information confiden-

tial should vote to report that information to the Senate in closed session, and then let the Senate work its will as to whether such information should be released to the public. The committee was concerned that the select committee should have a competent staff and therefore voted to eliminate the provision which would restrict the tenure of service of its employees.

Personally, I am opposed to the provisions of the resolution as approved which restrict the service of a Senator on the select committee to a 6-year term. I am also opposed to the provision which would authorize the select committee to obtain annual reports from the intelligence agencies on their intelligence activities and the intelligence activities of foreign countries directed at the United States or its interests and to direct the select committee to unclassify these reports including individuals engaged in intelligence activities for the United States or the sources of information on which such reports are based.

After the committee voted to report the committee substitute for the resolution, I have engaged in conversations with Senators representing different points of view on the resolution and because of the sentiments expressed, I proceeded to discuss the possibility with other Senators of working out some kind of a compromise version which would be acceptable to the Senate. This substitute I propose to introduce is now cosponsored by a great number of other Senators.

In submitting this amendment, the Senate will be given an opportunity to vote on a compromise version between that reported by the Committee on Government Operations and the substitute amendments acted on by the Committee on Rules and Administration.

The compromise would establish a new select committee to be known as the Select Committee on Intelligence. It would be composed of 17 Senators—as now drafted, however, there is some controversy as to the size of the committee, which undoubtedly will be considered on the floor—two each from the Committee on Appropriations, the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on the Judiciary, and 9 members from the Senate who are not members of these committees. No Senator would be permitted to serve more than 10 years, to be appointed so as to give them a rotating membership with one-third of the members to the greatest extent possible being appointed at the beginning of each Congress. All of the members are to be appointed by the President pro tempore on the recommendations of the majority and minority leaders, after consultation with the respective committee chairmen. The majority and minority leaders will be ex officio members but without a vote.

The chairman and vice chairman are to be elected at the beginning of each Congress by the members of their respective political parties. Senators appointed to this committee will be exempt from the limitations placed on the number of committee assignments to which a Senator is entitled.

The committee is given investigatory and oversight authority which would allow it to study all intelligence activities and programs by the Government; it would also have legislative jurisdiction over matters enumerated in section 3, including authorizations therefor. This jurisdiction would be shared with the standing committees which already have jurisdiction over such subject matter except in the case of the Central Intelligence Agency and the Director of Central Intelligence, which would fall solely within the jurisdiction of the select committee—that is, except for the Central Intelligence Agency and the Director thereof, certain committees would be given sequential, concurrent jurisdiction over the intelligence community.

The existing committees of the Senate would in no way be restricted in making studies and reviews of matters which fall within their jurisdiction, respectively.

Regular and periodic reports to the Senate on the nature and extent o the intelligence activities of the various departments and agencies would be required. The committee would be directed to obtain annual reports from agencies participating in intelligence activities and make public such unclassified information—I repeat, unclassified information.

The committee would also be required to report on or before March 15 of each year to the Committee on the Budget of the Senate the views and estimates "described in section 301(c) of the Congressional Budget Act regarding matters within its jurisdiction."

The committee would be authorized to make investigations, armed with subpena power. It would be authorized a staff and funds to keep itself informed on the intelligence activities within its jurisdiction to insure effective oversight of the intelligence community.

Effort was made to assure security against divulging unlawful intelligence activities and to protect our national security. Reports on lawful, classified information by this group will be made to the Senate in closed session to determine if such information should be released. The formula for this protection is set forth in sections 6 through 8.

All of the records, files, documents, and other materials held by the Select Committee on Government Operations with Respect to Intelligence Activities will be transferred to this committee.

Section 11 expresses the sense of the Senate as to the responsibility of the departments and agencies of the Government to keep the select committee informed of all developments in intelligence activities by the respective departments and agencies.

Subjects to be studied by the select committee and on which the committee is directed to file a report not later than July 1, 1977, are set forth in section 13. These matters include, among other things, the question of whether a standing committee should be formed and the question of whether a joint committee should be formed, such as the Joint Committee on Atomic Energy. A proposal already has been made in the House to create a joint committee, between the House and the Senate, on intelligence activities. Funds are authorized in the amount not to exceed $275,000 through February 28, 1977, paid out of the contingent fund of the Senate.

I submit this compromise to the Senate for its decision and judgment. There is no question in my mind but that all Senators share with me the desire to strengthen and to improve the Government's role in the intelligence field. In that spirit, I submit the compromise for the approval of the Senate. I send to the desk an amendment in the nature of a substitute, to be considered as a substitute for the committee amendment.

The PRESIDING OFFICER. The amendment will be stated.

Mr. CANNON. Mr. President, there is one slight modification that has been agreed upon, and I ask unanimous consent to submit it at a later time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The legislative clerk read as follows:

AMENDMENT NO. 1643

The Senator from Nevada (Mr. CANNON) (for himself, Mr. ROBERT C. BYRD, Mr. MANSFIELD, Mr. HUGH SCOTT, Mr. PERCY, Mr. HATFIELD, Mr. RIBICOFF, Mr. CHURCH, Mr. MONDALE, Mr. BAKER, Mr. CRANSTON, Mr. PHILIP A. HART, Mr. HUDDLESTON, Mr. MORGAN, Mr. GARY HART, Mr. MATHIAS, Mr. SCHWEIKER, Mr. JAVITS, Mr. KENNEDY, Mr. DURKIN, Mr. ROTH, Mr. STEVENSON, Mr. BROOKE, Mr. BROCK, Mr. WEICKER, Mr. HUMPHREY, Mr. CLARK, and Mr. PELL) proposes an amendment in the nature of a substitute: in lieu of the language intended to be substituted by the committee amendment insert the following:

That it is the purpose of this resolution to establish a new select committee of the Senate, to be known as the Select Committee on Intelligence to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the Senate appropriate proposals for legislation and report to the Senate concerning such intelligence activities and programs. In carrying out this purpose, the Select Committee on Intelligence shall make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the Nation. It is further the purpose of this resolution to provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States.

SEC. 2. (a) (1) There is hereby established a select committee to be known as the Select Committee on Intelligence (hereinafter in this resolution referred to as the "select committee"). The select committee shall be composed of seventeen members appointed as follows:

(A) two members from the Committee on Appropriations;

(B) two members from the Committee on Armed Services;

(C) two members from the Committee on Foreign Relations;

(D) two members from the Committee on the Judiciary; and

(E) nine members from the Senate who are not members of any of the committees named in clauses (A) through (D).

(2) Members appointed from each committee named in clauses (A) through (D) of paragraph (1) shall be evenly divided between the two major political parties and

shall be appointed by the President pro tempore of the Senate upon the recommendations of the majority and minority leaders of the Senate after consultation with their chairman and ranking minority member. [redacted] of the members appointed under clause (E) of paragraph (1) shall be appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate and four shall be appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(3) The majority leader of the Senate and the minority leader of the Senate shall be ex officio members of the select committee, but shall have no vote in the committee and shall not be counted for purposes of determining a quorum.

(b) No Senator may serve on the select committee for more than nine years of continuous service, exclusive of service by any Senator on such committee during the ninety-fourth Congress. To the greatest extent practicable, one-third of the Members of the Senate appointed to the select committee at the beginning of the ninety-seventh Congress and each Congress thereafter shall be Members of the Senate who did not serve on such committee during the preceding Congress.

(c) At the beginning of each Congress, the Members of the Senate who are members of the majority party of the Senate shall elect a chairman for the select committee, and the Members of the Senate who are from the minority party of the Senate shall elect a vice chairman for such committee. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. Neither the chairman nor the vice chairman of the select committee shall at the same time serve as chairman or ranking minority member of any other committee referred to in paragraph 6(f) of rule XXV of the Standing Rules of the Senate.

[redacted] For the purposes of paragraph 6(a) of rule XXV of the Standing Rules of the Senate, service of a Senator as a member of the select committee shall not be taken into account.

SEC. 3. (a) There shall be referred to the select committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

(1) The Central Intelligence Agency and the Director of Central Intelligence.

(2) Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.

(3) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

(4) Authorizations for appropriations, both direct and indirect, for the following:

(A) The Central Intelligence Agency and Director of Central Intelligence.

(B) The Defense Intelligence Agency.

(C) The National Security Agency.

(D) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(E) The intelligence activities of the Department of State.

(F) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

(G) Any department, agency, or subdivision which is the successor to any agency named in clause (A), (B), or (C); and the activities of any department, agency, or subdivision which is the successor to any department, agency, bureau, or subdivision named in clause (D), (E), or (F) to the extent that the activities of such successor department, agency, or subdivision are activities described in clause (D), (E), or (F).

(b) Any proposed legislation reported by the select committee, except any legislation involving matters specified in clause (1) or (4)(A) of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within 30 days after the day on which such proposed legislation is referred to such standing committee; and any proposed legislation reported by any committee, other than the select committee, which contains any matter within the jurisdiction of the select committee shall, at the request of the chairman of the select committee, be referred to the select committee for its consideration of such matter and be reported to the Senate by the select committee within 30 days after the day on which such proposed legislation is referred to such committee. In any case in which a committee fails to report any proposed legislation referred to it within the time limit prescribed herein, such committee shall be automatically discharged from further consideration of such proposed legislation on the thirtieth day following the day on which such proposed legislation is referred to such committee unless the Senate provides otherwise. In computing any thirty-day period under this paragraph there shall be excluded from such computation any days on which the Senate is not in session.

(c) Nothing in this resolution shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee.

(d) Nothing in this resolution shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the Senate to obtain full and prompt access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

SEC. 4. (a) The select committee, for the purposes of accountability to the Senate, shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters deemed by the select committee to require the immediate attention of the Senate or such other committee or committees. In making such reports, the select committee shall proceed in a manner consistent with section 8(c)(2) to protect national security.

(b) The select committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation for public dissemination. Such reports shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interests. An unclassified version of each report shall be made available to the public by the select committee. Nothing herein shall be construed as requiring the disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the sources of information on which such reports are based.

(c) On or before March 15 of each year, the select committee shall submit to the Committee on the Budget of the Senate the views and estimates described in section 301(c) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

SEC. 5. (a) For the purposes of this resolution, the select committee is authorized in its discretion (1) to make investigations into any matter within its jurisdiction, (2) to make expenditures from the contingent fund of the Senate, (3) to employ personnel, (4) to hold hearings, (5) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (6) to require, by subpena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (7) to take depositions and other testimony, (8) to procure the service of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, and (9) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The chairman of the select committee or any member thereof may administer oaths to witnesses.

(c) Subpenas authorized by the select committee may be issued over the signature of the chairman, the vice chairman, or any member of the select committee designated by the chairman, and may be served by any person designated by the chairman or any member signing the subpena.

SEC. 6. No employee of the select committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing and under oath to be bound by the rules of the Senate (including the jurisdiction of the Select Committee on Standards and Conduct) and of such committee as to the security of such information during and after the period of his employment or contractual agreement with such committee; and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

SEC. 7. The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

SEC. 8. (a) The select committee may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the select committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the

committee on the question of the disclosure of such information or after such vote except in accordance with this section.

(b)(1) In any case in which the select committee votes to disclose publicly any information which has been classified under established security procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, such committee shall notify the President of such vote.

(2) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President notifies the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is vital and outweighs any public interest in the disclosure.

(3) If the President notifies the select committee of his objections to the disclosure of such information as provided in paragraph (2), such committee may, by majority vote, refer the question of the disclosure of such information to the Senate for consideration. Such information shall not thereafter be publicly disclosed without leave of the Senate.

(4) Whenever the select committee votes to refer the question of disclosure of any information to the Senate under paragraph (3), the chairman shall, not later than the first day on which the Senate is in session following the day on which the vote occurs, report the matter to the Senate for its consideration.

(5) One hour after the Senate convenes on the fourth day on which the Senate is in session following the day on which any such matter is reported to the Senate, or at such earlier time as the majority leader and the minority leader of the Senate jointly agree upon in accordance with section 133(f) of the Legislative Reorganization Act of 1946, the Senate shall go into closed session and the matter shall be the pending business. In considering the matter in closed session the Senate may—

(A) approve the public disclosure of all or any portion of the informtion in question, in which case the committee shall publicly disclose the information ordered to be discosed,

(B) disapprove the public disclosure of all of any portion of the information in question, in which case the committee shall not publicly disclose the information ordered not to be diclosed, or

(C) refer all or any portion of the matter back to the committee, in which case the committee shall make the final determination with respect to the public disclosure of the information in question.

Upon conclusion of the consideration of such matter in closed session, which may not extend beyond the close of the ninth day on which the Senate is in session following the day on which such matter was reported to the Senate, or the cose of the fifth day following the day agreed upon jointly by the majority and minority leaders in accordance with section 133(f) of the Legislative Reorganization Act of 1946 (whichever the case may be), the Senate shall immediately vote on the disposition of such matter in open session, without debate, and without divulging the information with respect to which the vote is being taken. The Senate shall vote to dispose of such matter by one or more of the means specified in clauses (A), (B), and (C) of the second sentence of this paragraph. Any vote of the Senate to disclose any information pursuant to this paragraph shall be subject to the right of a Member of the Senate to move for reconsideration of the vote within the time and pursuant to the procedures specified in rule XIII of the Standing Rules of the Senate, and the disclosure of such information shall be made consistent with that right.

(c)(1) No information in the possession of the select committee relating to the lawful intelligence activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to subsection (a) and (b) of this section, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The select committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the select committee makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee which, receives any information under this subsection, shall disclose such information except in a closed session of the Senate.

(d) It shall be the duty of the Select Committee on Standards and Conduct to investigate any alleged disclosure of intelligence information by a member, officer, or employee of the Senate in violation of subsection (c) and to report thereon to the Senate.

(e) Upon the request of any person who is subject to any such investigation, the Select Committee on Standards and Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of Member, or removal from office or employment *or punishment for contempt*, in the case of an officer or employee.

SEC. 9. The select committee is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

SEC. 10. Upon expiration of the Select Committee on Government Operations With Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress, all records, files, documents, and other materials in the possession, custody, or control of such committee, under appropriate conditions established by it, shall be transferred to the select committee.

SEC. 11. (a) It is the sense of the Senate that the head of each department and agency of the United States should keep the select committee fully and currently informed with respect to intelligence activities, including any significant anticipated activities, which are the responsibility of or engaged in by such department or agency: *Provided*, That this does not constitute a condition precedent to the implementation of any such anticipated intelligence activity.

(b) It is the sense of the Senate that the head of any department or agency of the United States involved in any intelligence activities should furnish any information or document in the possession, custody, or control of the department or agency, or person paid by such depatrment or agency, whenever requested by the select committee with respect to any matter within such committee's jurisdiction.

(c) It is the sense of the Senate that each department and agency of the United States should report immediately upon discovery to the select committee any and all intelligence activities which constitute violations of the constitutional rights of any person, violations of law, or violations of Executive orders, Presidential directives, or departmental or agency rules or regulations; each department and agency should further report to such committee what actions have been taken or are expected to be taken by the departments or agencies with respect to such violations.

SEC. 12. Subject to the Standing Rules of the Senate, no funds shall be appropriated for any fiscal year beginning after September 30, 1976, with the exception of a continuing bill or resolution, or amendment thereto, or conference report thereon, to, or for use of, any department or agency of the United States to carry out any of the following activities, unless such funds shall have been previously authorized by a bill or joint resolution passed by the Senate during the same or preceding fiscal year to carry out such activity for such fiscal year—

(1) The activities of the Central Intelligency Agency and the Director of Central Intelligence.

(2) The activities of the Defense Intelligence Agency.

(3) The activities of the National Security Agency.

(4) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(5) The intelligence activities of the Department of State.

(6) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

SEC. 13. (a) The select committee shall make a study with respect to the following matters, taking into consideration with respect to each such matter, all relevant aspects of the effectiveness of planning, gathering, use, security, and dissemination of intelligence—

(1) the quality of the analytical capabilities of United States foreign intelligence agencies and means for integrating more closely analytical intelligence and policy formulation;

(2) the extent and nature of the authority of the departments and agencies of the executive branch to engage in intelligence activities and the desirability of developing charters for each intelligence agency or department;

(3) the organization of intelligence activities in the executive branch to maximize the effectiveness of the conduct, oversight, and accountability of intelligence activities; to reduce duplication or overlap; and to improve the morale of the personnel of the foreign intelligence agencies;

(4) the conduct of covert and clandestine activities and the procedures by which Congress is informed of such activities;

(5) the desirability of changing any law, Senate rule or procedure, or any Executive order, rule, or regulation to improve the protection of intelligence secrets and provide for disclosure of information for which there is no compelling reason for secrecy;

(6) the desirability of establishing a standing committee of the Senate on Intelligence activities;

(7) the desirability of establishing a joint committee of the Senate and the House of Representatives on intelligence activities in lieu of having separate committees in each House of Congress, or of establishing procedures under which separate committees on intelligence activities of the two Houses of Congress would receive joint briefings from the intelligence agencies and coordinate their

policies with respect to the safeguarding of sensitive intelligence information;

(8) the authorization of funds for the intelligence activities of the government and whether disclosure of any of the amounts of such funds is in the public interest; and

(9) the development of a uniform set of definitions for terms to be used in policies or guidelines which may be adopted by the executive or legislative branches to govern, clarify, and strengthen the operation of intelligence activities.

(b) The select committee may, in its discretion, omit from the special study required by this section any matter it determines has been adequately studied by the Select Committee to Study Governmental Operations with Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress.

(c) The select committee shall report the results of the study provided for by this section to the Senate, together with any recommendations for legislative or other actions it deems appropriate, no later than July 1, 1977, and from time to time thereafter as it deems appropriate.

SEC. 14. (a) As used in this resolution, the term "intelligence activities" includes (1) the collection, analysis, production, dissemination or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and other activity which is in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement or other association; (4) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States, and covert or clandestine activities directed against such persons. Such term does not include tactical foreign military intelligence serving no national policymaking function.

(b) As used in this resolution, the term "department or agency" includes any organization, committee, council, establishment, or office within the Federal Government.

(c) For purposes of this resolution, reference to any department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in intelligence activities now conducted by the department, agency, bureau, or subdivision referred to in this resolution.

SEC. 15. For the period from the date this resolution is agreed to through February 28, 1977, the expenses of the select committee under this resolution shall not exceed $275,000, of which amount not to exceed $30,000 shall be available for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(i) of the Legislative Reorganization Act of 1946. Expenses of the select committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SEC. 16. Nothing in this resolution shall be construed as constituting acquiescence by the Senate in any practice, or in the conduct of any activity, not otherwise authorized by law.

PRIVILEGE OF THE FLOOR

Mr. CANNON. Mr. President, before Senator RIBICOFF speaks, I ask unanimous consent that Bill Cochran and Miss McPherson, of the committee staff, have the privilege of the floor during the consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during the debate and voting on Senate Resolution 400: Richard Wegman, Paul Hoff, Paul Rosenthal, John Childers, Andrew Loewi, Claudia Ingram, James Davidson, Tom Dine, Brian Conboy Charles Morrison, William Jackson, Carolyn Fuller, Britt Synder, and Walter Riggs.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, before making my statement, I take this opportunity to pay special tribute to Senator CANNON, Senator ROBERT C. BYRD, Senator PERCY, and Senator CRANSTON—and there are many others—who worked hard to make this legislation possible.

During the entire discussion before the Committee on Government Operations and before the Committee on Rules and Administration, and thereafter, while there were differences of opinion, I found that Senator CANNON and Senator ROBERT C. BYRD had open minds on all the problems and controversies that swirled around this measure.

Senator ROBERT C. BYRD was particularly concerned that the Senate act on this important subject. He was aware of what had transpired and the need for a strong intelligence oversight committee, as well as the implications of trying to work out a compromise that was worthy of the Senate and would not lead to deep divisions in the Senate and in the Nation. I especially take this opportunity to pay tribute to Senator ROBERT C. BYRD and Senator CANNON.

I also want to pay tribute to the distinguished majority leader, Senator MANSFIELD, and to Senators BAKER, MONDALE, JAVITS, HATFIELD, CLARK, CHURCH and WEICKER for their great help in working to bring about this compromise.

Today, the Senate begins consideration of legislation to create a permanent committee on intelligence activities.

I strongly support creation of a new intelligence committee with full legislative and authorization authority.

At this time, I point out that the first person who proposed a committee on intelligence was our majority leader. Senator Mansfield, who, more than 20 yars ago, suggested that it was absolutely essential for us to have a legislative committee in the entire field of intelligence. Since then, a number of studies have recommended taking this step. In 1975 the Commission on CIA Activities headed by Vice President ROCKEFELLER recommended creation of a new committee on intelligence following their study of the activities of the CIA in the United States. Most recently, the select committee recommnded a new committee after a 15-month study of the intelligence community. Creation of the committee can be postponed no longer.

Mr. President, I believe creation of a new committee with the necessary authorities will be good for the country, good for the intelligence community, and good for the Senate.

A new committee will help protect the constitutional rights of our citizens and help restore the confidence of the American people in their intelligence agencies. A recent public opinion poll found that while 78 percent of the public believe it is very important to have the best intelligence agency in the world, the public also believes by a 66-percent to 18-percent margin that both Congress and the White House should monitor the CIA more closely. Public confidence in the intelligence community will remain uncertain until the public knows that its elected representatives are effectively overseeing and working with the intelligence agencies.

Creation of a permanent new committee with a clear authority to reorganize the intelligence community can help end the uncertainties and distractions which now plague the intelligence agencies, thereby making it difficult for the agencies to concentrate on their proper job of providing the intelligence this country needs.

A new committee can help restore a sense of comity between the executive branch and the Senate and help reassert the proper role of Congress in the conduct of foreign affairs. A full and frank exchange of views between the Senate and the President will help avoid such embarrassing situations as Angola and promote a more unified foreign policy.

Witnesses who testified before the Government Operations Committee in favor of a strong new committee included: Senators MANSFIELD, CHURCH, CRANSTON, HUDDLESTON, and BAKER; Dean Rusk; Nicholas Katzenbach; William Colby; McGeorge Bundy; Clark Clifford; Richard Helms; Morton Halperin; John McCone; and Henry Kissinger. Dr. Kissinger testified that creation of such a new committee would be in the interest of national security. Mr. David Phillips, president of the Association of Retired Intelligence Officers, said that 98 percent of his membership responding to a poll favored creation of a new intelligence committee.

On the basis of those hearings, the committee came to the following conclusions which were in turn embodied in Senate Resolution 400 as reported by the committee:

First. There is a need for vigorous congressional oversight of the intelligence community. Congress cannot simply proceed in the future as if nothing has happened.

Second. To provide this effective oversight of the intelligence agencies, a permanent new Senate committee must be established. The present committees have too many other important responsibilities to permit them to devote the time and re-

sources necessary for really effective oversight.

Third. Oversight and legislative authority over the intelligence community should be centered in this new Senate committee. The vast majority of witnesses who testified before the committee stressed the need for centralizing the intelligence oversight function into as few committees as possible. The present proliferation of committees increases the chances for unauthorized disclosures of sensitive information and diffuses oversight responsibility.

Fourth. Because the Government's intelligence activities, both here and abroad, are so interrelated, the new committee's jurisdiction must cover all agencies that engage in intelligence activities, including the Central Intelligence Agency and the Departments of State, Defense, and Justice, including the FBI.

Fifth. The new committee must have the formal authority and the practical means to obtain access to all the information it needs.

The abuses of the intelligence community that have been disclosed in the last few years dramatically demonstrate the need for creating a new intelligence committee with the powers set out in the Cannon proposal.

In considering the need for a strong new committee, we cannot forget the abuses described in the final report of the select committee. These include:

The FBI counterintelligence programs designed to disrupt political groups in the United States. Under these programs, the Bureau engaged in hundreds of burglaries of nonviolent domestic groups.

The wiretapping, bugging, and harassing of Dr. Martin Luther King, Jr. by the FBI. Indeed, on the eve of Dr. King's receipt of the Nobel Prize, the FBI sent him a note suggesting that he commit suicide.

The CIA's Operation CHAOS, which, in violation of the agency's chapter, compiled files on over 300,000 American citizens and organizations. Under Operation CHAOS, CIA agents infiltrated antiwar and civil rights groups in an attempt to disrupt them.

Drug testing on unsuspecting citizens.

The use of covert relationships with newspaper reporters and the covert use of American student, labor, and religious groups.

The National Security Agency's "Operation Shamrock," which transmitted international telegraph traffic to the NSA from 1948 onward.

"Operation Minaret," in which the National Security Agency gathered information on antiwar protestors.

The 100,000 files that Army intelligence opened on civilians and groups unaffiliated with the Armed Forces.

The IRS "special services staff" which gathered information on 3,000 domestic organizations and 8,000 individuals, and the IRS audits on individuals and groups because of their beliefs and political activities.

The thousands of foreign covert operations, including assassination plots, undertaken since 1961.

The Senate cannot simply turn its back on these revelations. Nor can it simply create a new study committee to study once more what the Select Committee on Intelligence and other committees, commissions, and others have already studied. The excellent work of the select committee has now been done. It is now time for the Senate to begin to act on the over 170 recommendations made by the select committee in its final report, including many recommendations for legislation. Legislation must be considered and procedures established that will make it certain that the Government's intelligence activities are subject, like everything else the Government does, to the rule of law and the will of the people. Legislation must be considered and procedures established to assure that the intelligence community is organized as efficiently as possible to provide accurate and timely intelligence at a reasonable cost and with a minimum of duplication.

To do all this, a new committee with broad legislative authority must be created in this session of Congress. It is not enough to say that the abuses will not happen again, that the present committees will hire more staff, and that the present system of oversight can be made to work.

Under the present system, at least three committees, in addition to the Committee on Appropriations, have oversight responsibilities, each for a limited part of the intelligence community. Oversight of the Government's intelligence activities, although a difficult and time-consuming task in itself, is in fact only a small portion of the full responsibilities of these committees. It is small wonder that none of these committees is able to exercise comprehensive oversight over the intelligence community.

In the domestic intelligence area, for example, the Church committee found that Congress "has failed to define the scope of domestic intelligence activities or intelligence collection techniques, to uncover excesses, or to propose legislative solutions. Some Members have failed to object to improper activities of which they were aware and have prodded agencies into questionable activities." Select committee report, book II, page 277.

The most important means of oversight is the power of the purse. Yet Congress, as a whole, has never known how much the intelligence agencies are spending or how much is spent on intelligence activities generally. Select committee report, book I, page 469.

Nor will it do just to place on top of the present inadequate system a new committee without legislative and authorization authority. It would be equally unwise to create a committee which must share all of its legislative or authorization jurisdiction with other committees.

Although a number of the Government's intelligence agencies are part of larger departments, the President has recognized that the Government's intelligence activities are an integral whole that must be looked at as a single whole. In February, he moved to centralize further executive branch supervision of all the Government's intelligence activities, whether they are part of the Department of Justice, the Department of Defense, the Department of State, or the like. The Senate must do the same.

Only a single committee with full legislative and authorization authority can assure comprehensive and continuous oversight of the intelligence community on a permanent basis. Only a single committee with the necessary authority can consider comprehensive legislation to rewrite the charters and structures of the 11 or more intelligence agencies scattered throughout the Government. Only a single committee with the necessary authority will have the time and ability to review adequately the expenditures of all the intelligence community and to approve annual authorizations.

Mr. President, Senate Resolution 400, as reported by the Government Operations Committee, will give us the means for exercising the necessary type of comprehensive oversight over the intelligence community. If there are changes that may be made to perfect this resolution without changing its essential nature, I hope they will be proposed. But the Senate cannot allow the jurisdictional concerns of its own committees to overshadow the national interest. In the long run, it is not crucial that one committee or another loses or gains jurisdiction. What is crucial in the long run is to establish a new committee to exert effective congressional control over the intelligence community. I strongly urge the Senate to promptly create such a committee.

Mr. President, the need for improved oversight of the intelligence agencies is apparent. I am pleased that in the last few days my colleagues and I have been able to work out a compromise that will provide that much-needed oversight. The compromise substitute that will be proposed will assure that the Senate will assume its proper place in our constitutional system.

The compromise substitute is the product of much hard work and a commendable spirit of compromise and accommodation. It is a delicately balanced proposal that addresses the concerns of the intelligence community, the executive branch, the Senate, and most importantly, the public.

It gives the new committee the essential elements and powers which any committee must have to do an effective job of oversight. The new committee will pay a very important role in overseeing and legislating for the intelligence community. At the same time, the compromise protects the legitimate interests and concerns of the standing committees. The key elements of the substitute are as follows:

First, the new intelligence committee would be a select committee with 17 members—9 majority members and 8 minority members—appointed by the leadership on a 9-year rotating basis. Four majority and four minority seats are reserved for members of Armed Services, Foreign Relations, Judiciary, and Appropriations.

Second, the new committee would have legislative and authorization jurisdiction over all U.S. intelligence activities, including CIA, FBI, and DOD. The juris-

diction is exclusive over the CIA and its authorization.

The intelligence committee will have exclusive legislation and authorization jurisdiction over the CIA and the Director of Central Intelligence. But if the select committee reports legislation, including authorization legislation, that affects agencies other than the CIA or the Director of Central Intelligence, the legislation may be sequentially referred for up to 30 days to the appropriate standing committee with general jurisdiction over that agency. Under similar procedures the intelligence committee chairman could ask for referral to his committee of legislation affecting any of the intelligence activities of the Government which has been reported by another committee.

The original referral of any legislation will be to the intelligence committee if it predominately involves the intelligence activities of the Government.

Third, the compromise provides that the intelligence community budget will be annually authorized. Annual authorization will constitute a very important aspect of the committee's oversight of the agencies. It should assure a regular review of each agency's activities, its efficiency, and its priorities. The annual authorization procedure preserves the Senate's ability to act via the continuing resolution route in an emergency situation.

Fourth, committee has full subpena and investigative authorities. The intelligence community is expected to keep the committee fully and currently informed about the intelligence activities it is responsible for, or engages in, including any significant anticipated activities. Intelligence agencies must provide all necessary information and documents to the intelligence committee.

Fifth, the committee may disclose information where disclosure is in the public interest. If the President objects to committee disclosure of any classified information the full Senate must decide the matter of disclosure. The resolution in no way affects the right of two Senators under rule 35 to ask for a closed session of the Senate to discuss sensitive matters, including the question of whether the Senate should disclose classified information.
disclosed clasified information.

Committee disclosure of classified information to other Senators is governed by specific provisions, including a requirement that there be a written record of such disclosure.

Mr. President, I want to commend my colleagues on their hard work and great concern for the national interest that this substitute embodies. I urge my fellow Senators to adopt this substitute. By doing so we may close the book on an unpleasant past and begin to restore the Nation's confidence in the intelligence community, the Senate, and itself.

Mr. President, I ask unanimous consent to have a section-by-section analysis of the Cannon substitute printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE RESOLUTION 400 COMPROMISE—SECTION-BY-SECTION ANALYSIS

SECTION 1—STATEMENT OF PURPOSE

This section states that it is the purpose of the resolution to create a new select committee of the Senate with legislative jurisdiction to oversee and make continuing studies of the intelligence activities and programs of the U.S. Government. This section obliges the committee to make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the nations. As the wording of the section suggests, one of the goals of the new committee should be to assure that other members and committees of the Senate receive directly from the agencies all the intelligence analysis they need to fulfill their responsibilities. It is further the purpose of the new committee to provide vigilant oversight of the intelligence activities of the United States.

SECTION 2—COMMITTEE STRUCTURE

Subsection (a) establishes the Select Committee on Intelligence Activities. It provides that the committee will be composed of 9 majority and 8 minority members. Two members will be drawn from each of the following committees: Appropriations, Armed Services, Foreign Relations, and Judiciary Committees. The other 9 members of the new committee may not be members of the above-named four committees.

Clause 2 of this subsection provides that members appointed from each of those four named committees will be evenly divided between the two major political parties and appointed by the President pro tempore of the Senate upon the recommendations of the majority and minority leaders of the Senate, respectively. Five of the remaining 9 at large members will be appointed by the President pro tempore of the Senate upon the recommendation of the majority leader and four will be appointed by the President pro tempore upon the recommendation of the minority leader.

The majority leader and minority leader of the Senate are to be ex officio members of the Select Committee but will have no vote on the committee.

Subsection (b) prohibits a Senator from serving on the committee for more than 9 consecutive years. It is expected that in each Congress approximately one-third of the 17-member committee will be new members.

This section also provides that, at the beginning of each Congress, the members of the full Senate who are members of the majority party will select a chairman and the minority members of the full Senate will select a vice chairman. The resolution expressly provides that neither the chairman nor the vice chairman may serve at the same time as a chairman or ranking minority member of any other permanent committee. The vice chairman is to act in the place of the chairman in the chairman's absence.

Subsection (d) provides that membership on the new intelligence committee will not be taken into account for purposes of determining the number of committees a Senator may serve on. A Senator need not give up a seat on another committee in order to serve on the new intelligence committee.

SECTION 3—JURISDICTION

This section defines the new committee's jurisdiction. Subsection (a) gives the committee legislative jurisdiction over the Central Intelligence Agency and the Director of Central Intelligence, as well as over the intelligence activities of all other departments and agencies of the Government. These other agencies and departments include, but are not limited to, the intelligence activities of the Department of Defense, including the Defense Intelligence Agency, and the National Security Agency, and the intelligence activities of the Departments of State, Justice, and Treasury. The jurisdiction includes legislation reorganizing the intelligence community.

Subsection 3(a) also specifies that the intelligence committee will have jurisdiction over authorizations of budget authority for the chief intelligence agencies in the government: the Central Intelligence Agency; the intelligence activities of the Department of Defense (including the Defense Intelligence Agency and the National Security Agency); the intelligence activities of the Department of State; and the intelligence activities of the Federal Bureau of Investigation, specifically, all activities of the Bureau's Intelligence Division. The committee will continue to have jurisdiction over these parts of the intelligence community even if they are transferred to successor agencies.

Subsection (b) provides that the intelligence committee will have exclusive legislation and authorization jurisdiction over the CIA and the Director of Central Intelligence. The subsection also provides, however, that if the select committee reports legislation, including authorization legislation, that affects agencies other than the CIA or the Director of Central Intelligence, the legislation may be sequentially referred for up to 30 days to the appropriate standing committee with general jurisdiction over that agency. Under similar procedures the intelligence committee chairman could ask for referral to his committee of legislation affecting any of the intelligence activities of the government which has been reported by another committee.

The original referral of any legislation will be to the intelligence committee if it predominately involves the intelligence activities of the government. If the legislation predominately involves non-intelligence matters and secondarily intelligence, the legislation will be referred to a standing committee, and then sequentially referred to the intelligence committee.

Subsection (c) makes it clear that nothing in the resolution prohibits or restricts the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of the committee. Any committee may conduct oversight hearings concerning an agency's intelligence activities and the affect of the intelligence activities on the ability of the agency to perform its overall mission.

Subsection (d) provides that nothing in the resolution limits or inhibits any other Senate committee from continuing to obtain full and direct access to the product of the intelligence agencies where that information is relevant to a matter otherwise within the jurisdiction of such committee. This provision specifically assures the right of any other committee, such as the Foreign Relations Committee, to receive briefings on the political situation in any part of the world.

SECTION 4—COMMITTEE REPORTS

Subsection (a) requires the new committee to make regular and periodic reports to the Senate on the nature and extent of the Government's intelligence activities. The committee must call to the attention of the Senate or any other appropriate committee any matters which require the immediate attention of the Senate or other committees. If, for example, the intelligence committee possesses information on intelligence activities that may have a significant affect on foreign policy, the intelligence committee should notify the Foreign Relations Committee. Any report the intelligence committee makes will be subject to the provision in section 8(c)(2) to protect national security.

Subsection (b) requires the intelligence committee to obtain a report each year from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation for purposes of public dissemination. Each report should review the intelligence activities of the particular agency or department submitting the report. Included in this report should be a review of the intelligence activities directed against the United States or its interests by other countries. The reports by the four intelligence agencies and departments are to be made public in an unclassified form.

Subsection (c) makes it clear that the new committee must comply, like any other committee, with the reporting requirements of the Budget Act of 1974.

SECTION 5—INCIDENTAL POWERS

Subsection (a) gives the new committee all the incidental powers it must have to operate effectively as a committee. The powers spelled out in this subsection include the power to investigate, to issue subpoenas and take depositions, and to exercise the normal administrative and financial powers of a committee. Subsection (b) authorizes the chairman of the committee or any member thereof to administer oaths. Subsection (c) provides that the chairman, vice chairman, or any other member designated by the chairman may issue a subpoena and specifies the procedure for serving the subpoena.

SECTION 6—COMMITTEE STAFF

This section specifies the security provisions applicable to committee staff. It requires staff to pledge in writing, and under oath, to observe the security rules of the Senate and of the new committee both while employed by the new committee and afterwards. Staff must receive a security clearance under a system directed by the new committee, but developed in consultation with the Director of Central Intelligence.

SECTION 7—INDIVIDUAL PRIVACY

The section requires the committee to formulate and carry out rules and procedures to prevent the disclosure of information which unnecessarily infringes upon anyone's privacy. The committee may disclose information if it determines that the national interest in the disclosure of the information outweighs any privacy concerns.

SECTION 8—DISCLOSURE OF INFORMATION

Subsection (a) establishes the basic rule that the committee may disclose information where disclosure is in the public interest. It also establishes basic rules governing those instances, which will certainly not occur in every case; where the committee must vote on whether to disclose particular information such as classified information governed by subsection (b). In those instances, the committee must vote on the matter within five days if any member requests a meeting for such purpose. When such a meeting is necessary, a committee member may not publicly disclose the information until the committee votes to do so, and then only in accordance with the procedures established by the rest of this section, as well as any other procedures established by the committee.

Subsection 7(b) governs the public disclosure of information which the executive branch has classified under established security procedures. If the committee wishes to disclose such classified information it must inform the President and give him five days to respond. If the President does not object, the committee may disclose. If the President does object, and certifies that disclosure would threaten vital national interests, the committee may determine that disclosure should occur despite the President's objections. The committee may then refer the matter to the full Senate for its determination pursuant to the expedited procedures spelled out in the remainder of the subsection.

Under this expedited procedure the committee must refer the matter within a day to the Senate. After the matter lays over a maximum of three days, it would then automatically become the pending order of business and the Senate would have up to 5 days to discuss in closed session whether or not there should be public disclosure. No later than the close of the fifth day after the matter is taken up the Senate must vote in open session either to disclose, not to disclose, or to refer the matter back to the committe for its final determination.

Subsection 8(c) governs the disclosure by the committee to other Senators of information classified under established security provisions relating to the lawful intelligence activities of the government which the committee has determined should not be disclosed.

Any such disclosure may only occur in a closed session of the Senate, or pursuant to the rules of the committees and the procedures described in this subsection. Under these procedures the committee must keep a written record in each case, showing which committee or member received the information. The subsection contains a prohibition against any Member of the Senate, or any committee, which receives the information from the select committee disclosing the information to any other person. In addition to these protections, disclosure of such sensitive information will be subject to whatever additional rules the committee adopts on its own to protect the confidentiality of such information.

Subsection (d) requires the Select Committee on Standards and Conduct to investigate any alleged disclosure of classified information in violation of the provisions of this section. Subsection (e) states that if the Select Committee on Standards and Conduct decides at the conclusion of its investigations that any Member, officer, or employee of the Senate has committed a significant breach of confidentiality it must report its findings to the Senate and recommend appropriate action. In the case of a Senator this may be censure, removal from committee membership, or expulsion. In the case of an officer or employee, it may be removal from employment or punishment for contempt.

SECTION 9—PRESIDENTIAL REPRESENTATIVE AT COMMITTEE MEETING

This section authorizes the committee to permit, under rules established by the committee, a personal representative of the President to attend the closed meetings. The provision does not require the new committee to invite a representative of the executive branch to attend closed meetings, or establish a presumption that the committee will do so. It merely makes explicit the power that any committee has to invite a Presidential representative to attend committee deliberations if the committee finds such representation helpful in conducting its duties. Because of the special nature of the new committee's work, however, it may find this procedure especially useful.

SECTION 10—DISPOSITION OF THE MATERIAL OF THE SELECT COMMITTEE ON INTELLIGENCE

This section provides for the transfer of documents, records, files and other materials from the Select Committee on Governmental Operations with Respect to Intelligence Activities to the new committee.

Since its inception, the Church Committee has reached certain understandings with the CIA and other intelligence agencies concerning the ultimate disposition of written material provided to the select committee. Under these agreements, some material provided to the select committee was to be returned to the appropriate agencies. Other materials were not to have been returned. This section respects those agreements.

The new committee will obtain possession of all the material the Church Committee has except in those instances where there is an express agreement that the material should be returned to the executive branch.

SECTION 11—COMMITTEE ACCESS TO INFORMATION

Subsection (a) governs the information which the intelligence agencies must provide on their own initiative to the new committee. The subsection expresses the sense of the Senate that the intelligence agencies should keep the committee fully and currently informed about its activities. This requirement does not apply to the myriad details of day-to-day intelligence operations, but only to information which the committee needs to make informed judgments on policy questions.

The requirement extends to briefing the committee in advance of any significant anticipated activities, such as covert operations. An anticipated activity may be significant because it is financially costly, or because it may affect this country's diplomatic, political, or military relations with other countries or groups. The Proviso clause makes it clear that while the agencies are expected to brief the intelligence committee in advance on proposed covert operations, implementation of the covert action is not dependent upon the committee in turn approving the proposed activity. Affirmative action by the committee is not a condition precedent to implementation of the activity.

Subsection (b) expresses the sense of the Senate that the head of any department or agency of the United States involved in any intelligence activities should make available to the committee any person paid by the agency to provide any information the committee requests, and to furnish upon request any document or information which the department or agency has in its possession, custody, or control. Independent of this provision, the committee will, of course, have the subpena power to enforce its requests for information.

Subsection (c) expresses the sense of the Senate that each department and agency report any intelligence activity that may violate the constitutional rights of any person, or may violate any law, Executive order, Presidential directive, or departmental or agency rule or regulation.

Such reports should be made to the intelligence committee immediately upon discovery of the wrongdoing. Each department or agency should further report to the committee what action is taken or expected to be taken by the department or agency with respect to such violations.

SECTION 12—ANNUAL AUTHORIZATIONS

This section insures an annual or biannual authorization of funds for the intelligence agencies over which the new committee had jurisdiction beginning September 30, 1976. In the past some of the intelligence activities have been governed by openended authorizations. The section places clearly upon the record a decision by the Senate that in the future this will no longer be the case and that, instead, there will be annual or biannual authorizations. The section recognizes, however, that as in the case of other agencies, the intelligence agencies may have to be funded in an emergency by continuing resolutions pending adoption of the authorization. It also recognizes that the funding of the intelligence agencies will be subject to the standing rules of the Senate.

Periodic authorizations of the intelligence agencies will constitute a very important aspect of the committee's oversight over the agencies. It should assure a regular review of each agency's intelligence activities, its efficiency, and its priorities.

SECTION 13—COMMITTEE STUDIES

This section sets forth important subject matter areas which the new committee would be required to study and report on by July 1, 1977 and from time to time thereafter as it deems appropriate. Those study areas are as follows:

(1) the quality of the analysis of foreign intelligence information and the use of analysis in policymaking;

(2) the authority of each agency to engage in intelligence activities and the desirability of developing legislative charters for the agencies;

(3) the organization of the executive branch to maximize oversight, efficiency and morale;

(4) the conduct of covert and clandestine activities and the process of informing the Congress of such activities;

(5) the desirability of changing laws and rules to protect necessary secrets and to publicly disclose information that should be disclosed;

(6) the desirability of establishing a standing committee of the Senate on intelligence activities;

(7) the desirability of establishing a joint Senate-House committee on intelligence activities;

(8) the procedures under which funds for intelligence activities are authorized and whether disclosure of the amounts of funding is in the public interest;

(9) the development of a common set of terms to be used by the executive and legislative branches in policy statements and guidelines it issues in the intelligence area.

Subsection (b) specifically provides that the new committee may omit from its study any matter which the committee feels the Church committee has already adequately studied.

SECTION 14—DEFINITIONS

Subsection (a) defines four aspects of the term "intelligence activities." They are: national or foreign intelligence, counterintelligence, foreign covert or clandestine activities, and domestic intelligence.

National or foreign intelligence covers intelligence which is relevant to the government's national decision-making.

The definition of domestic intelligence does not cover the normal investigatory work that all enforcement agencies engage in as a part of their normal responsibilities to enforce the law. The only domestic intelligence activities that are covered by the term intelligence are those activities that focus on the political and related activities of Americans because of the threat those activities pose, or are alleged to pose, to the internal security (i.e., fundamental interests) of the United States.

The definition of intelligence activities does not include tactical foreign military intelligence serving no national policymaking function.

SECTION 15—FUNDING FOR THE NEW COMMITTEE

This section authorizes start up funds for the select committee. It provides up to $275,000 for the period between the time the new committee is created and February 28, 1977.

SECTION 16—EFFECT ON OTHER LAWS

Section 16 states that nothing in the resolution is intended to imply approval by the Senate in any activity or practice not otherwise authorized by law. The section is intended to make it clear that by assigning the new committee jurisdiction over a particular activity, such as covert or clandestine activities, or the domestic intelligence activities of the Federal Bureau of Investigation, the Senate does not thereby intend to express any view as to the legality of any such activity.

Mr. RIBICOFF. Mr. President, I wish to make just one inquiry of the distinguished Senator from Nevada. In setting forth his understanding of the compromise proposal, I do not know whether it was just a slip of the tongue, but he mentioned the fact that there would be a limit of 10 years on the terms that Senators would serve. I have had the understanding that we had agreed on a 9-year term.

Mr. CANNON. Yes, we agreed in our meeting on 9 years. In working with the staff, the suggestion was made on the part of some of the staff members, and it was, I understand, cleared with staff members all around, that it would be better if it went either 8 or 10 so that it coincided with the terms of a particular Congress and we would not have a change in the middle of a Congress. That was reported back to me as having been cleared by staff members. I did say 10 deliberately and put that in the bill as a result of that discussion. I have no feeling for whether it is 8 or 10, but I think it makes sense to have it one or the other, rather than the 9-year term which we had discussed.

Mr. RIBICOFF. I understand the position of the Senator. The only thing is that our staff was not informed and Senator PERCY and I heard it here for the first time. I am sure that before the bill is decided on, we shall have opportunity to discuss this during the next day or so and clarify it. I did want to call attention to the fact that the Senator's description of the bill is accurate, with that minor discrepancy.

Mr. PERCY. Will the Senator yield to me?

Mr. RIBICOFF. Yes.

Mr. PERCY. The Senator from Connecticut and I have confirmed with the acting majority leader (Mr. ROBERT C. BYRD) that 9 years was the agreement. But the Senator from Illinois would like Senator CANNON to know that if changing in the middle of a Congress does present a problem, and it certainly is a factor that we had not considered, the Senator from Illinois will be very pleased to change it to 8 years, but not 10. The Senator from Illinois preferred the 6-year period but acceded in order to reach the compromise.

Mr. CANNON. Nine years was the figure we agreed on. It was drafted that way. But when the suggestions came back to me from staff, from discussion, after meetings by some staff with both the majority and minority members, that we ought to go to 10 or 8, I felt that would pose no problem. I am perfectly willing to go to 9. It does not pose any problem as far as I am concerned, but it may be better to go 8 or 10 rather than 9 because of the break in Congress.

Mr. RIBICOFF. I just wanted to clarify the record and some time tomorrow. I am sure we can straighten out that difference.

Mr. PERCY. If the Senator will yield further, because the distinguished Senator put in a compromise cosponsored by so many who attended that meeting, perhaps it would be best to leave that figure at nine, which did represent the agreement at that time. Then obviously, we can change it to 8 or 10, as the Senate desires.

Mr. CANNON. The Senator makes a good point. I thought it had been cleared with all people.

Mr. President, I ask unanimous consent that where the figure 10 is inserted for the figure 9, it be changed to the figure 9.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. PERCY. Mr. President, before beginning my comments, my first thoughts turn again toward the remarkable workings of the U.S. Senate.

Despite the anti-Washington attitude and the anticongressional feelings expressed by opinion polls, where we are rated relatively low, the observation of the Senator from Illinois has been that when a critical issue is faced by the Senate, the Senate generally faces up to that issue. Whereas we may have had an extended—and I do mean extended—debate, and it appeared a few days ago as though there would be great disharmony on this matter, through the diligent effort of a number of my colleagues, we have now reached a compromise that is incorporated in the amendment offered by Senator CANNON on behalf of a great many of us. I do wish to pay great tribute not only to my own distinguished chairman (Mr. RIBICOFF) with whom I have enjoyed working for so many years, but to Senator CANNON, who has contributed so much to this effort, and Senator ROBERT C. BYRD of the Committee on Rules and Administration.

Mr. President, I wish to express my deep appreciation to Senator Sam Ervin, who undertook the chairmanship of the Select Committee on Watergate, and who did an absolutely outstanding job. That investigation, conducted with him as chairman, and my distinguished colleague (Mr. BAKER) as his vice chairman, provided a basis for many years in the future, I believe, for the Senate investigating malfeasance in the executive branch of Government. Certainly, I commend Senator BAKER for his work and help on Senate Resolution 400.

Compromise would have been impossible without the work that has been undertaken by every Senator who has worked on this compromise resolution.

Also on the Government Operations Committee are Senators MUSKIE, JAVITS, WEICKER, ROTH, and BROCK, who have contributed greatly, as have other Senators such as Senators MONDALE, CRANSTON, SCHWEIKER, HATFIELD, CLARK and HUDDLESTON.

I know we are going to benefit tremendously by the continuing participation of the distinguished Senator from Alabama (Mr. ALLEN), who worked on this matter diligently in the Rules Committee.

The Government Operations Committee staff—and the Senator from Illinois is not qualified to speak of staff members from other committees—but certainly Dick Wegman, John Childers, Paul Hoff, Claudia Ingram, Charles Morrison, Brian Conboy, Ted van Gilder, and James Davidson of the Government Operations Committee staff performed a remarkable

service in bringing us to this particular point.

Mr. President, today we do face one of the most vital issues before this body in many years. It is a question that involves the national security of this country. It is a question that involves the personal rights and freedoms of all American citizens. It is a question that involves whether or not Congress is willing to stand up to its constitutional responsibilities to adequately oversee the operations of the executive branch.

It is a question of whether or not we are a nation of laws and constitutional procedures or whether we are going to abdicate our oversight responsibilities and, in effect, delegate important powers of this country to a select, nonelected group in the executive branch, without providing for adequate accountability.

This is not a new question before us, Mr. President. Ten Congresses ago, in 1955, Senator MANSFIELD introduced a resolution which would have established a Joint Committee on Central Intelligence. The new committee would have had legislative authority over the agency, and required that the CIA keep the new committee "fully and currently informed with respect to its current activities."

That resolution was defeated by the full Senate.

There have been other attempts to create such a committee in the intervening 20 years. All have failed, but now we have the facts that demonstrate beyond a doubt that such a new committee is needed.

Investigations of the past year and a half have shown that the intelligence agencies of this Government have gone beyond their charters and committed illegal actions. The CIA, the FBI, and NSA have all abused the right of American citizens, and committed illegal actions.

The need for better oversight by Congress over the intelligence community is clear. This is not just the feeling of certain Members of the Senate; it is also the recommendation of the executive branch. The Commission on the Organization of Government for the Conduct of Foreign Policy, the so-called Murphy Commission, recommended that Congress create a new structure for overseeing the intelligence community.

Last year, in June 1975, the President's Commission on CIA Activities Within the United States recommended that a new intelligence committee be established in order to improve the operations of the intelligence agencies and to prevent abuses in the future. This Commission was headed by Vice President ROCKEFELLER.

In addition to these executive branch recommendatons, the Senate Select Committee on Intelligence has made a major study of the intelligence community and has come forward with recommendations. Certainly in mentioning that committee, a great many Members of the Senate worked with great diligence, but I should like to particularly point out the work of such distinguished Members as Senator CHURCH, Senator TOWER, Senator BAKER, Senator MATHIAS, and others who have contributed immensely to the work of that select committee.

The resolution before the Senate today, Senate Resolution 400, is the product of all these investigations and recommendations. It contains the recommendations of all these investigatory bodies. Senate Resolution 400 is an attempt to respond to the need for more effective oversight of the intelligence community. Not only would it prevent abuse in the future, but I feel it would begin to restore the trust and confidence in the intelligence community that we all desperately need.

In the hearings the Government Operations Committee held, the call for a new committee to oversee the activities of the intelligence community was made clear. Secretary of State Kissinger supported the creation of a new committee; former Director of CIA Colby supported a new committee; two other former Directors of the CIA, John McCone and Richard Helms, supported the creation of a new committee; Clark Clifford, former Secretary of Defense, supported a new committee; Mr. McGeorge Bundy, former National Security Adviser to the President, supported such a new committee; Mr. David Phillips, president of the Association of Retired Intelligence Officers, supported a new committee, and said that 98 percent of the members of his association, who were retired intelligence officers, favored the creation of a new oversight committee.

The need for such a new committee seems clear to me and I believe it was made very clear by the testimony and the inferences in the testimony of Secretary Dean Rusk, former Secretary of State. He made the astounding comment that he thought as Secretary of State he knew all the major activities being carried on by the Central Intelligence Agency overseas that affected foreign policy for which he had direct responsibility to the President of the United States.

He only learned subsequently, by reading the newspapers and reports that came out of Senate committees and other committees established for that purpose, that he did not know all that he was supposed to know and that he thought he knew, and I rather imagine he was shocked to find that.

What we want to prevent is any future Secretary of State, responsible for carrying out foreign policy of this Government, not even knowing some of the activities carried on by the Government that affect foreign policy. Nor should we be surprised as a Congress to find that activities have been carried out over which we have really not had adequate access to the information in some form or other. The question is, what form should oversight take now?

I would not question at all the intentions and desires of the Members of the Senate in the past who have had oversight responsibility. But the responsibility has been fragmented. Many times committees have simply not been told.

If they did not ask the right question, the information was not volunteered to them. There was not an open basis and there was not a clear overall responsibility in one single central committee for the operation of the CIA.

So there is no use looking to the past. What we need to do is work together to find a basis in the future for overcoming the deficiencies of the past.

With what has been said, though, what kind of a committee should we have? Based on recommendations of the Senate Select Committee on Intelligence, the Government Operations Committee unanimously reported Senate Resolution 400. Senate Resolution 400, as originally reported, would have created a strong oversight committee with legislative authority and authorization authority.

As reported by the Senate Government Operations Committee, Senate Resolution 400 would have created a new standing committee of the Senate with legislation and authorization authority over the intelligence community. It would have required the intelligence community to keep the new committee fully and currently informed, and would have provided oversight over the intelligence activities of the United States to assure that actions taken by the intelligence agencies were legal.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a summary of the provisions of Senate Resolution 400 as originally introduced.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY

Specifically, S. Res. 400 provided that:

1) The committee would have been composed of 11 members of the Senate, six selected from the majority party of the Senate and five members from the minority party of the Senate. Members of the new committee would be selected by their respective caucuses.

2) The resolution provided for rotating membership by members of the committee, as well as rotating staff.

3) The new committee would have provided exclusive legislative jurisdiction over the intelligence agencies of the United States government to ensure consolidated legislative authority over the intelligence community.

4) Disclosure provisions were written into the bill so that if the President objected to the release of any information provided to the new committee, the new committee could not release such information if three members of the committee objected. In such case, the question of whether or not to disclose would have to be referred to the full Senate for disposition. Procedures were also written into the resolution to establish a record of to whom information was provided by the intelligence committee. Further, sanctions were written into the bill mandating the Select Committee on Standards and Conduct to investigate any alleged disclosure of intelligence information in violation of the resolution.

5) S. Res. 400 as originally reported required the committee to be kept fully and currently informed with respect to intelligence activities by executive branch agencies, including any significant anticipated activities. This did not require and was never intended to require prior approval by the committee of intelligence activities, but did mandate that the new committee be kept fully and currently informed of the activities of the agencies.

6) The new committee was to be provided exclusive authorization authority over the budgets of the intelligence agencies. This was considered to be a most vital factor for

the new committee to be able to operate properly and with atuhority. For the first time, this would have provided consolidated control over the intelligence community budgets.

Mr. PERCY. The basic reason for the creation of a new committee is to provide a single focal point in the Senate to oversee the intelligence community. At the present time, executive branch responsibility for intelligence is spread among a number of organizations, some civilian and some military. No one agency or department is solely responsible for our intelligence program.

Jurisdiction in the Senate over intelligence matters and oversight of the intelligence community is also widespread, and a number of committees have a piece of the action. There is no single committee at the moment that has overall oversight of legislative functions for the intelligence community. Responsibility in the Seante at the present time is spread among the Armed Services Committee, the Foreign Relations Committee, the Judiciary Committee, and the Appropriations Committee. The responsibility for oversight for the intelligence community is the prime focus of no single committee in the Senate. In some instances now there is not even oversight staff or there is at best a limited staff to oversee the intelligence community.

Intelligence is so vital and so important to the security of this country that any effective congressional oversight requires that any oversight committee make the intelligence community its prime focus.

I would like to digress, Mr. President, just a moment on that particular point. I have talked to a great many Americans in many States, but particularly in the State of Illinois, during the process of the investigation of our intelligence activities.

(At this point, Mr. CULVER assumed the chair as Presiding Officer.)

Mr. PERCY. At no time have I ever found any reasonable or rational person who in any way questioned for one moment the need for a strong, powerful nation that is the leader of the free world and that has a tremendous burden of responsibility on its shoulders to have an effective, efficient intelligence community.

That is not subject to question. I think anyone who would demagogue this issue and point to the abuses that have been carried out as a means of trying to destroy the intelligence community would in so doing, destroy the ability of the United States to protect its vital interests and the vital interests of the free world.

I do not think that is really an issue. The people of this country expect us to have a thorough, ongoing intelligence facility and capability. I think they expect us to have the finest in the world.

What they do not want is abuse in the name of law enforcement. They do not want such an agency breaking the law. They do not want people in that agency to feel that they somehow have a mission in life so important that they are above the law. They do not want complicity in that. They do not want Congress to be in a position where it is going to take for granted that the executive branch of government alone will carry out this operation. They do not want to have the feeling that the material, the function, and the purpose of such an organization, the intelligence community, has to be so secretive that Members of Congress who have a responsibility and who are cleared for top secret cannot be taken into the confidence.

But I have resisted mightily every effort to have oversight by the Congress in such a way that Congress would be part and parcel of the decisionmaking process.

How can we exercise oversight activity, as a we should, and be in on the day-by-day decisions for, say, covert operations?

Those operations belong in the jurisdiction of the executive branch of Government, so long as they are committed to writing, so long as there is a top official responsible, and for a major activity the President of the United States must be responsible. President Ford has said to me, the Senator from Illinois, that he would personally sign in writing the options placed before him, the problem being faced up to, and the decision made.

The congressional oversight can be fully informed, can be kept up to date, but should not be in the position where it is being asked for prior approval which might jeopardize the intelligence activity and which might then put the Congress in a position where it truly could not perform an oversight function because Members of Congress have been part and parcel of the original decisionmaking process.

The Senator from Illinois has been extraordinarily concerned that the Congress, in a reaction to Watergate, to Lockheed, to the CIA, FBI, and Internal Revenue revelations, is going to overreact and, really, in a sense, assume unto itself executive branch responsibility.

Clearly, we must exercise oversight. But clearly, we cannot run the Government by a committee of 535 people. That is why the executive branch of Government was conceived, to have a chief executive officer who could react to all of the arguments and had the authority to say that this is what we are going to do or not to do, subject always to our appropriation process, subject always to our oversight responsibilities.

I think we have presented to the Congress, to the Senate for its consideration, the creation of a new committee that can be a single focal point in the Senate to oversee the intelligence community, and yet an oversight committee organized in such a way that it is clearly determined that it is not going to be a part of the decisionmaking process and that is not going to usurp the responsibilities of the intelligence community itself.

Intelligence activities are spread among a large number of executive branch organizations today—some civilian and some military. No one agency or department is solely responsible for our intelligence program.

It was the purpose of the Presidential reorganization effort to bring these activities together and have someone who could be held responsible for the overall activity. I think we knew that when we confirmed Mr. George Bush to that position. He has been given that responsibility.

The Congress has made it very clear, indeed, that it expects all activities in the intelligence community to cooperate with that Presidential direction and reorganization in structure and that we will, in our oversight responsibilities, do everything we can to determine that structure and organization is being carried out as originally conceived.

In no way is Senate Resolution 400 designed to mean that Congress actually runs the intelligence agencies. Direction and implementation of policy must come from the executive branch. However, Congress must exercise consolidated oversight over the intelligence community. If we expect, as we did, the executive branch to reorganize that activity so it could bring its own organization together, we have to, ourselves, then bring ourselves together in such a way that we can operate without duplication, overlapping inefficiencies, and, we might say, overlooking, because our oversight activity is not properly structured and properly organized.

We have to do so in such a way that we do not authorize and appropriate money for organizations and then impose upon them such a burden so that they literally are incapable of carrying out their responsibilities.

The Senator from Illinois was very disturbed and literally shocked when Mr. Colby testified, in response to a question from the Senator from Illinois, as to what proportion of his time as Director of the CIA he spent preparing for testimony before congressional committees, appearing before Congressional committees of the House and Senate, and then responding to the work given to him by the committees before whom he had appeared.

Mr. Colby thought about it, put a few figures on a piece of paper, and has not since corrected the figure he gave the Senator from Illinois.

Sixty percent of his time in 3 years as Director of the CIA was spent before Congress. I asked him what he thought should be the proportionate amount of time. He thought 10 percent—90 percent to direct the activities and do the work and 10 percent to be accountable to Congress would be a fair proportionate share of his time.

I think that possibly might apply to virtually every member of the executive branch of Government unless an agency is in deep trouble. Obviously intelligence has been in some deep trouble for a few years now.

But I think our aim ought to be to organize in such a way that the Director can devote a reasonable proportion of his time to Congress, but not be on the Hill so much that, literally, the Agency's direction is being left to subordinates who are not personally directly accountable to the Congress.

We know that inefficiencies in the performance of the intelligence community

can really cost billions of dollars. We know that, based on studies to date, there are inefficiencies and duplications in the intelligence agencies. But there is no single committee to pull all this information together in the Senate at the moment.

Therefore, I strongly support consolidated oversight over the intelligence community. It is time for the Senate to take such action.

Throughout the debate on this issue, my primary goal will be to assure that we have strong, effective oversight over the intelligence community.

Certainly, the Senator from Illinois, and every other Senator, I trust, will be willing to be flexible. Already, the distinguished Senator from Nevada (Mr. CANNON) has indicated there has come an issue on the tenure of the Senators serving on the committee that should be subject to floor discussion. He has indicated a willingness to be flexible. Certainly, the Senator from Illinois will be flexible on that issue, as I am sure my distinguished colleague from Connecticut will be.

We are not saying this compromise is final. It is subject to amendment. It is subject to discussion. But it does represent a remarkable effort by a group of Senators determined to try to resolve some of the major points of controversy prior to placing the substitute on the floor.

Senate Resolution 400, as reported by Government Operations, is certainly subject to amendment in itself, and has been now in good conscience amended.

But in good conscience I could not agree, during the course of debate this week, to amendments that would emasculate the proposed new committee; that would make it weak; that would make it a toothless watchdog; that would provide no real, effective oversight. That I cannot agree to. Nor do I feel my colleagues on the Government Operations Committee and the Select Committee on Intelligence or the Committee on Rules, which has heard for so many days hearings on this matter, could agree to that.

Certainly, after weeks of hearings, in good conscience none of us could agree to emasculating amendments that would betray the trust placed in us by the American public, and I think in this respect by the executive branch of Government. Time after time they have said they wanted effective oversight. They are seeking it; they are looking for it. But they want it organized in such a way that it is not disruptive to their own operations.

Mr. President, it comes as no surprise to Members of this body that the precise form that oversight should take has been extremely controversial. Some have advocated maintaining the status quo, some have preferred a new study, while others have spoken in favor of a strong new committee with concentrated authority.

This diversity of view, Mr. President, is what makes this institution so great and so representative of the American people. It is a source of strength rather than of weakness. Our strength is in our diversity.

Another source of strength, Mr. President, is this body's ability to reconcile these divergent opinions and to reach a general consensus that is in the realm of the possible and at the same time is effective legislation. In a word, to compromise.

Today we have before us a proposed substitute for Senate Resolution 400 that I cosponsored which can hopefully receive maximum support. It is a product of days of discussion and intense consideration of vitally important issues in an attempt to reconcile divergent views. We hope that the proposed substitute, which blends widely differing points of view, will accomplish what most of us seek to accomplish.

I am able to offer my wholehearted support to the compromise proposal, and I ask unanimous consent that the summary, as I understand the substitute, be printed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY

Following are the major points of the substitute:

1) There is established a Select Committee to be known as the Select Committee on Intelligence Activities. The Select Committee shall be composed of 17 members—nine members selected at large, 2 members from the Appropriations Committee, 2 members from the Armed Services Committee, 2 members from the Foreign Relations Committee and 2 members from the Judiciary Committee.

The Majority Leader of the Senate and the Minority Leader shall be ex officio members of the Committee and shall have no vote.

The members of the Committee shall be appointed by the Majority and Minority Leaders of the Senate whose choices shall be confirmed by the respective caucuses.

The Committee will be a bipartisan committee with nine members from the majority and eight members from the minority. The majority members of the Senate shall select the chairman for the Select Committee and the minority members of the Senate shall select the vice chairman for the committee.

Service in the Select Committee shall not count against a member's service on any other committee. In other words, this is an add-on committee.

2) The members of the Select Committee shall rotate with the maximum term being 9 years of membership on the committee; ⅓ of the committee will rotate each 3 years. The staff shall be permanent with no rotation.

3) The new committee shall have legislative and authorization authority. In the case of the CIA, such legislative and authorization authority shall be exclusive. In the case of other covered intelligence agencies in this legislation, the authority shall be shared with the present standing committee with oversight responsibility. There shall be a process of concurrent sequential referral of legislation and authorizations. In other words, in the case of an agency such as the NSA, both the Intelligence Committee and the current standing committee would share jurisdiction. In any case where either the Intelligence Committee or the standing committee reported out legislation or an authorization, it would then be referred to the other committee for a period not to exceed 30 days. If the second committee did not take action within 30 days, the second committee would be automatically discharged from responsibility for the legislation and it would go to the Senate floor. A major addition to the substitute was the re-inclusion of the FBI in the jurisdiction of the Intelligence Committee.

4) The budgets for the covered intelligence agencies shall be annually authorized by the new Intelligence Committee. In the case of the CIA, exclusively; in the case of other agencies, on the concurrent basis. However, language will be written into the resolution to assure that a point of order cannot be raised against a continuing resolution should an authorization not be approved prior to the appropriations process.

5) On disclosure, if the new committee votes to release any information which has been classified and submitted to it by the executive branch, the committee shall notify the President of such vote. The Select Committee may then publicly release such information after 5 days unless during that intervening period of time the President notifies the Committee that he objects to the disclosure of such information. After review of the President's objections, if the Committee still wishes to release the information it may refer the question of disclosure to the full Senate for consideration. The Senate will then make the final decision in closed session, and may take any one of the following three courses of action: (1) approve the public disclosure of any or all of the information in question; or (2) disapprove the public disclosure of any or all of the information in question; or (3) refer any or all of the information in question back to the Committee, in which case the Committee shall make the final determination with respect to the public disclosure of the information in question.

There is a provision in the resolution which requires that the final vote on the question of whether or not to release shall not occur later than the close of the ninth day on which the Senate is in session following the day on which such question was reported to the Senate.

6) No information in the possession of the Select Committee which the Committee has determined should not be disclosed shall be made available to any person except in a closed session of the Senate or, information can be made available by the Select Committee to another committee or another member of the Senate according to rules the Select Committee lays down. No member of the Senate receiving such information can disclose such information to any other parties except in a closed session of the Senate or with the permission of the Select Committee.

7) The Select Committee on Standards and Conduct shall investigate any alleged disclosure of intelligence information in violation of these rules. The Select Committee on Standards and Conduct shall investigate any alleged violation and report its findings and recommendations to the Senate.

8) The head of any department or agency of the United States engaged in intelligence activities shall keep the Select Committee fully and currently informed, including any significant anticipated activities which are the responsibility of such department or agency. It is the mandate of the agency or department to keep the committee informed. In no way is this requiring committee approval before engaging in such activities. In other words, there is a mandate to keep the committee fully and currently informed but the committee does not have a veto power over activities of such agency or department.

Mr. PERCY. Mr. President, the disclosures of the last few days have made the need for oversight in the intelligence community painfully evident. I venture to say there are few Members of this body who would wish to see repeated the violations of our civil liberties which have occurred. I believe that the proposed new committee represents the most effective possible check against repeated activities which are a threat to the very foundation of our democracy.

Mr. President, over 200 years of our Nation's history have shown we must be ever alert to the dangers posed by those

who wish us no well. The American people need a strong intelligence community.

But, thousands of pages of testimony, hundreds of editorials and hundreds of alleged abuses point out a need for better oversight of the intelligence agencies. The American people need to be assured that these necessarily secret agencies operate within the law. The American people and the Senate need strong oversight of the intelligence community. The proposed new Committee on Intelligence Activities will do the job and do it well. I urge my colleageus to offer their support.

Finally, I ask unanimous consent that Elliot Maxwell, Mike Madigan, and Bob Kelly, of the Select Committee on Intelligence, be granted access to the floor, including votes, during the consideration of Senate Resolution 400, and that the same privilege be granted to Mr. John Childers, minority counsel for the Government Operations Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, I, too, commend the distinguished chairman of the Government Operations Committee, the chairman of the Rules Committee, and the others who have participated in developing this substitute amendment which has been introduced this afternoon.

It was just a week ago that the press reports indicated that the prospects for developing a strong oversight Committee on Intelligence in the U.S. Senate were rather bleak. I would say that those reports were somewhat premature, even though perhaps it is a little early now to predict that this body will accept the legislation which is now before it, or will accept it without substantial change. But I think certainly we can say that the prospects are greatly improved. In my own judgment we will have a good oversight committee established to look after the intelligence operations of this Nation.

Mr. President, in the days ahead we will be discussing what I view as one of the most important pieces of legislation which will come before this Congress. During those days of debate, we will touch upon many issues—issues regarding Senate rules, the role of a new committee, the authorities for that committee, the manner of selecting members. There are many differences of opinion with regard to these issues—differences which will have to be worked out in our deliberations and perhaps in Senate rollcall votes. Each of these matters is of importance, and I do not believe that any should be slighted in consideration.

But, in addressing the various subsidiary issues, I hope that we will not lose sight of what I consider to be the foremost one—the need for a strong committee for the intelligence community with legislative and authorizing authority.

As chairman of the Foreign and Military Intelligence Subcommittee of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities, I have spent many days during the past 15 months reviewing the activities of our intelligence agencies and evaluating their performance. Our findings, reported in more than 600 pages of text on April 26, reflect beyond a doubt that new oversight is required.

That report, together with others which have been made public, demonstrates with clarity that the intelligence agencies of our Government have at times operated outside both the law and their charters and outside the bounds of wisdom. The information which has been released over the last few months regarding drug testing on unwitting Americans, assassination plots and the interception of millions of messages sent by private citizens reflect activities which have simply gotten out of hand and indicate a pressing need for our intelligence agencies to return to accepted practices.

These reports also indicate that the United States is involved in a multitude of so-called covert activities abroad—activities which by their nature cannot be subjected to public scrutiny and debate as can, for example, the activities of the Department of Agriculture, or the Department of Commerce or most of the other activities of our Government.

Our Government has been involved in some 900 such major or sensitive projects since 1961 and several thousand minor ones, many of which, especially in the earlier years were undertaken without the approval or review of a high level body outside the Central Intelligence Agency. I, and the committee in general, concluded that we must maintain a capability for such actions and that our Nation will be forced in a number of instances to continue to utilize covert activities. But, at the least, additional oversight and accountability must be applied to this area which has to operate under a certain veil of secrecy.

Finally, our report indicates that despite the fact that our intelligence agencies have served well in many areas, there are aspects of their operations which could be improved. For example, more attention should be given to producing the so-called finished product of intelligence information; more coordination and less waste and inefficiency might result from strengthening the Director of the Central Intelligence—DCI. With the large increase in the number of Soviets and other nationals whose interests may be contrary to ours, in our country, additional counterespionage efforts may need to be made.

These three situtaions—the unfortunate episodes which have occurred in the past, the necessity of maintaining our ability to conduct covert actions and the need for improvement in the effectiveness and efficiency of various aspects our intelligence community—argue strongly for increased oversight, centralized in a committee whose principal concern shall be intelligence.

If there is one thing that my service on the Intelligence Investigating Committee has done, it is to reinforce my belief in, and commitment to a strong and effective intelligence system. In the world in which we live, we could not survive without the information which thousands of dedicated men and women provide us, often under the most trying and dangerous circumstances. Without their work, we could not feel militarily secure. We could not conduct foreign relations with assurance. We could not enter treaties with confidence. Quite simply, we could not adequately protect ourselves.

Yet, perhaps the most insidous danger is intelligence agencies which operate under a cloud of suspicion and doubt. But, that is what the situation has been. That is what effective oversight can help prevent.

So, as consideration of this measure continues, I hope that we will all remember that the heart of the matter is oversight and accountability. Past wrongs argue to be righted as best they can; future effectiveness and legality demands to be secured. The most important single move we could make toward accomplishing that is to create a strong, responsible oversight committee which can exercise that eternal vigilance which Thomas Jefferson warned us is the price of liberty.

I thank the Chair.

Mr. MORGAN. Mr. President, the matter before the Senate today and that will be before the Senate for the next few days comes down to one very simple question: Will we ignore the past, or will we learn from it?

We now have the reports of the Select Committee on Intelligence which carefully document over 40 years of abuse by, and misuse of, the intelligence agencies of the Federal Government.

For nearly 15 months, Mr. President, I sat as a member of that committee and listened to the testimony concerning the abuses and misuses of the Agency.

In the course of those 40 years, we have had the rights and the privacy of Americans violated in countless episodes. Furthermore, we have seen that many of these episodes were not the isolated aberrations of agents out in the field, but rather were part of concerted programs approved at the highest levels of these agencies. I remind my colleagues of the FBI's program called COINTELPRO and the CIA's program called CHAOS.

Despite the fact that these programs did have high-level approval and resulted in widespread and systematic violations of the rights of law-abiding citizens, Congress, until recently, had never sought to learn about them or control them. Indeed, on some occasions, I am afraid our actions in Congress actually encouraged them.

As the select committee put it in its final report:

> Congress has failed to define the scope of domestic intelligence activities or intelligence collection techniques, to uncover excesses, or to propose legislative solutions. Some of its members have failed to object to improper activities of which they were aware and have prodded agencies into questionable activities.

Then the report concludes:

> If Congress had addressed the issues of domestic intelligence and passed regulatory legislation, and if it had probed into the activities of intelligence agencies and required them to account for their deeds, many of the excesses (of the past) might not have occurred.

We have the opportunity to remedy this situation by creating a committee with the authority to propose legislative solutions, and the power to make these agencies accountable for their activities.

Mr. President, as I mentioned, I served on the Church committee, and while I initially approached that assignment with considerable skepticism, I came to realize that the abuses of the intelligence agencies were real, and that people who had done nothing wrong in the eyes of the law, had nonetheless suffered at the hands of the Government for the simple reason that they had dared to be different.

Most importantly, the Church committee's work demonstrated to me that there is no activity undertaken by the Federal Government which so jeopardizes the rights guaranteed to us by the Constitution. Intelligence activity, almost by definition, is directed at persons and organizations who have committed no crime but whose activities are thought to pose a danger to our internal security or affect our foreign relations. By its very nature, therefore, intelligence activity tends to skirt the traditional notion that governmental surveillance will be employed only after a warrant has been issued on the grounds that there is probable cause that a crime has been, or is about to be, committed.

Again, I remind my colleagues that the record of the select committee shows us that intelligence activities of the past have resulted in the Government's opening mail and reading telegrams, in its tapping telephones, and its breaking into homes—all without benefit of a search warrant or indication that a crime was being committed.

In short, there is no activity carried out by the Federal Government which can have so devastating an impact on the Bill of Rights. While intelligence activities cost us relatively little in terms of money, they can cost us very dearly, in terms of our principles.

It is for this reason, then—the particular sensitivity of intelligence activities with respect to the impact on the rights of indivduals—that convinces me that we need a strong oversight committee to deal exclusively with this area.

I realize that adoption of the approach suggested here will result in the jurisdiction of existing committees being diminished insofar as their oversight of intelligence activity is concerned. But by concentrating oversight in a new committee with jurisdiction to treat intelligence activity exclusively, we should not only get better oversight of intelligence, but existing committees should themselves be able to devote greater time to non-intelligence operations of the agencies they oversee.

One of the problems of the past has been that questionable intelligence activities have not been brought to the attention of existing oversight committees because they have constituted a relatively small part of an agency's operations, and have involved relatively small sums of money. The possibility that certain programs might intrude on the rights of individuals has seldom motivated any intelligence agency to seek approval from Congress.

I foresee this new committee, however, as being informed, in advance, of any intelligence activity which could affect the rights of Americans. I furthermore foresee such a committee investigating allegations that intelligence activities have violated constitutional guarantees. Finally, I foresee this new committee developing—for the first time—the expertise necessary for Congress to formulate and enact legislative standards to govern intelligence activity.

I might also add that I think a strong oversight committee will result in more cooperation and better coordination between Congress and the intelligence community than heretofore. The Church committee found, on the one hand, that in the past there had been an attitude on the part of intelligence agencies that Congress could not be trusted to keep its secrets, and an attitude, on the other hand, that Congress really could not understand all of the ramifications which the agency considered in deciding to undertake this or that action. So Congress was not informed, unless, on occasion, the plans of the agency went awry, in which case Congress was presented with a fait accompli.

I see a centralized oversight committee as changing all this. First, I think the concept of a single committee with intelligence responsibility is appealing from a security point of view, the intelligence community would not be forced to spread classified information over a multitude of congressional committees. Moreover, the committee itself would be in a better position than committees with other-than-intelligence jurisdiction to adopt stringent security procedures. I note in the resolution currently pending that certain security restrictions are placed on both members and staff, and that there is a formal procedure to be followed prior to the public disclosure of any classified information. Such measures would go far, to insure that security considerations do not, in the future, prevent the intelligence community from dealing frankly with the Congress.

Second, I think that Congress would be in a position for the first time, to exercise its own independent judgment with respect to intelligence operations. With a membership and a staff devoted solely to intelligence needs and problems, the committee would be in a position to understand and evaluate the decisions made by the intelligence community as no congressional committee has ever done before. My conversations with people in the intelligence community lead me to believe that this change would be welcomed by the intelligence community. They want to have the approval of the Congress, and they would like it to shoulder some of the responsibility for the tough decisions which must be made.

And well it should. Too long have we abdicated our role in these matters, and too often has our neglect resulted in erosions of individual rights going unchecked and unrepaired.

Justice Douglas once wrote that the Bill of Rights was written to keep government off the backs of people. One way to insure that this is done, is for Congress to "get on the backs" of those agencies whose activities threaten our rights. I do not mean to harass or embarrass those agencies, but rather to exert a gentle, but unrelenting, pressure, which lets them know that we are there and cannot be taken for granted.

And so, Mr. President, I urge my colleagues to support the substitution offered by Senator CANNON. In my opinion, this measure would create the strong oversight committee which I think the experience of the past 40 years cries out for.

To do any less would be worse than doing nothing. Effective oversight over any governmental activity is dependent upon the ease of access which a committee has to records and personnel involved in that activity. It has been my experience that unless a congressional committee has legislative or monetary clout, its inquiries are largely ignored. It is politely strung along, but it is not effective.

It is for this reason that I think it essential that any committee we create have the authority to report legislation and the authority to authorize appropriations. To establish an oversight committee without the power needed to obtain access and cooperation from the intelligence community would be worse than doing nothing at all—it would only camouflage the reality of the situation.

Mr. President, if we pass up this opportunity to create such a committee, it very well may be another 50 years before the abuses of such agencies again will be disclosed to the public and the support found that is necessary to enact such legislation.

Mr. HRUSKA. Mr. President, the discussion before us sharply raises the question of how the Senate should best exercise its oversight authority over governmental intelligence programs.

I have long been concerned with such intelligence activities having been deeply involved in this area by virtue of my membership on the Appropriations and Judiciary Committees.

Today I wish to address my remarks chiefly to that aspect of congressional oversight pertaining to the Department of Justice.

In March, the Judiciary Committee was referred Senate Resolution 400 which sought to create a new permanent committee with exclusive jurisdiction over all aspects of the intelligence function of the executive branch. Following hearings and much deliberation amongst committee members, the Judiciary Committee voted to delete from this resolution the grant of jurisdiction to the proposed Committee on Intelligence Activities over the intelligence activities of the Department of Justice, including the Federal Bureau of Investigation.

The amendments would retain in the Judiciary Committee its historic jurisdiction over the Department of Justice and the FBI. The present exercise of jurisdiction over these activities is in accord with the purpose and spirit of the Legislative Reorganization Act of 1946

Senate Report No. 1400, 79th Congress, 2d session, Legislative Reorganization Act of 1946—May 31, 1946—set forth the standards controlling committee jurisdiction, page 2:

(The bill) would replace our jerry-built committee structure with a simplified system of standing committees corresponding with the major areas of public policy and administration . . . and the coordination of the congressional committee system with the pattern of the administrative branch of the National Government would improve the performance by Congress of its legislative and supervisory functions.

Following this continuing guideline, the Judiciary Committee possesses oversight jurisdiction over the Department of Justice and its bureaus including the Federal Bureau of Investigation. The full committee and at least three subcommittees exercise jurisdiction over the Bureau and its functions, the Subcommittee on Administrative Practice and Procedure, the Subcommittee on Constitutional Rights and the Subcommittee on Criminal Laws.

The difficulty with Senate Resolution 400, prior to its being amended, is that it proposed to split the oversight jurisdiction of the FBI between the Judiciary Committee and the proposed new Intelligence Committee, with the new committee to have jurisdiction over intelligence activities of the Bureau and the Judiciary Committee to retain jurisdiction over nonintelligence aspects of this agency.

Those who have studied the FBI's organization and mode of operation are well aware that its intelligence activities are intertwined with its law enforcement function. For the most part its intelligence activities are an investigatory tool used in detecting crime.

There is a real potential that a splitting of the oversight jurisdiction of intelligence and nonintelligence aspects of the FBI may create much confusion and result in conflicting congressional guidance to that agency. It should be noted that the FBI, unlike other intelligence collecting agencies affected by Senate Resolution 400, is a law enforcement agency. The intelligence activity of the FBI is simply a means by which it detects and investigates violations of Federal criminal laws. Because this activity is so integrally related to the criminal investigatory function of the FBI and the Department of Justice, it is our belief that oversight of the FBI should be continued to be dealt with as a unit.

Mr. President, during the hearings before the Judiciary Committee on Senate Resolution 400, both Attorney General Levi and FBI Director Kelley testified. Both stated that vigorous oversight of the Department of Justice and the FBI was healthy and productive in the betterment of the system. Both urged that this function could be best served by retaining oversight in a single committee.

Mr. Levi well pointed out—

That intelligence activities of the FBI should be closely tied to the criminal law.

And that—

Congressional oversight arrangements that would split off the intelligence functions from the more ordinary law enforcement functions of the Bureau would tend to diminish the force of this perception.

Mr. President, we have heard much in recent years that the FBI should be more accountable to the Department of Justice and the Attorney General. It should be viewed as an integral part of the Department of Justice—not as a separate law enforcement or intelligence agency. The effect of splitting of the intelligence oversight of the Bureau and vesting it with a separate committee would tend to create the impression that it is somehow divorced from the rest of the law enforcement branch of the Federal Government.

We should remember, Mr. President, that the Bureau is under the supervision of the Attorney General, the principal law enforcement office in the Federal Government, a subject over which the Judiciary Committee has long exercised jurisdiction.

As stated by Director Kelley:

While the FBI has many duties concerning the internal security of our country, it is not alone in this responsibility. The entire criminal justice system is involved. Observance of the law and the preservation of public order are the foundations for this country's domestic security. Without adequate and equitable enforcement of the law, whatever the source or circumstance of its violation, a democratic society cannot enjoy the stability it requires.

Stripping the Judiciary Committee of jurisdiction over law enforcement in the area of internal security while leaving it with general jurisdiction over the remainder would be to create a hybrid wherein necessary general oversight over law enforcement would be annulled and essential perspective destroyed.

The Judiciary Committee is at this moment considering the revision of title 18 of the United States Code, the criminal laws including the provisions on espionage. Should it report a bill with amended espionage provisions subject to future amendment by the Intelligence Committee? Should it report a bill with no change in the existing provisions on espionage with the expectation that the bill will be rereferred to the Intelligence Committee? Should the lengthy study that has gone into the espionage provisions be put aside?

A further consideration which I believe should be borne in mind is that a separation of intelligence oversight from the traditional law enforcement aspect of the Deparmtent and the Bureau would very likely result that no one Senate committee would have a general overview and knowledge of all the activities of the Department of Justice. This could result in some information as to its operations to "fall between the cracks" and become known to no committee.

The Senate Rules Committee, to which Senate Resolution 400 was subsequently referred, concurred with the Judiciary Committee position on this subject, noting in part in its report that—

The intelligence activity of the FBI is a means by which it detects and investigates violaions of federal criminal laws. Because this activity is so integrally related to the criminal investigatory function of the FBI and the Department of Justice, it is the belief of the Committee that all legislative authority should be continued to be dealt with as a unit within the jurisdiction of the Committee on the Judiciary.

Mr. President, for these reasons I am opposed to the creation of a permanent Senate Intelligence Committee with jurisdiction, whether exclusive or concurrent, over the intelligence aspects of the Department of Justice.

It is my understanding that some Members may attempt to revive such a version of Senate Resolution 400 as was reported by the Government Operations Committee. While I do oppose such an approach, I am not wedded in opposition to the version of Senate Resolution 400 as it was reported by Chairman CANNON from the Rules Committee.

The Rules Committee version of Senate Resolution 400 would in effect continue the work of the present Select Committee. The temporary committee which is proposed would be granted general oversight of all intelligence activity rather than exclusive jurisdiction, legislative or authorization wise, which some are promoting. It would have an opportunity to review this subject area with some objectivity now that the emotion charged revelations of the past year have become public.

In summary, Mr. President, it is my firmest belief that the granting of legislative oversight of FBI intelligence to a new committee will cause not only confusion as to congressional direction to the Department of Justice in its law enforcement investigatory function but will also create much costly duplication in request for materials and information being sought by the various Senate committees so authorized to oversee this Department.

The most important reason against splitting jurisdiction, however, Mr. President is that mentioned by Attorney General Levi in testimony before both the Judiciary and Government Operations Committees.

Mr. Levi strongly stressed the necessity of continuing and strengthening the concept that the intelligence activity of the FBI is part and parcel of the law enforcement mission of the Department of Justice. I do not wish to aid those who would, however inadvertently, separate these two functions.

I wish to state again, Mr. President, that I fully oppose the creation of a permanent Senate Intelligence Committee with jurisdiction, concurrent or exclusive, over the intelligence activities of the FBI both in an oversight and legislative nature.

As I have indicated, such a move would give strength to the concept that the intelligence activity of the FBI was separate from the law enforcement function of the Department of Justice where it necessarily and properly rests. Such a move, further could easily result in long range confusion and conflict of congressional directives to the FBI not to mention the costly and duplicative requests for material and information being sought by the various committees involved.

I believe also, that I would be remiss in not adding that a sharing of access to intelligence material provides a greater possibility of unauthorized disclosure of matter which the Department of Justice understandably needs to safeguard in order to protect its sources and

techniques of investigating criminal violations.

For these reasons, Mr. President, I urge my colleagues to reject any measures which grant any proposed standing committee the jurisdiction over the intelligence activities of the Department of Justice.

Mr. HATFIELD. Mr. President, The U.S. Senate could play a major role in improving the image and the creditability of the American intelligence community if it adopts the proposed substitute to Senate Resoluton 400 to be offered by Senators MANSFIELD, CANNON, RIBICOFF, and others. I am pleased to join my colleagues in cosponsoring this measure.

As the Members of the Senate know, this substitute would establish a Select Committee on Intelligence Activities with both legislative and budgetary authority over the CIA and other intelligence agencies. If adopted, this measure would centralize, for the first time, the Senate's oversight of the American intelligence community. At the same time, it would permit other committees of the Senate the continued opportunity to review and oversee the work of the DIA, FBI, and the National Security Agency.

For over 15 months, the Church committee has conducted a thorough and an exhaustive study and investigation of the practices and policies of the CIA, FBI, NSA, and the DIA. While none of us are proud of the past abuses of power which have taken place in these agencies, we all know of the important role these organizations play in the overall security of our country.

Mr. President, many of us believe and feel that the responsibility for these abuses, as reported by the Church committee, must not only be placed upon the executive branch, but the legislative branch as well. Had the Congress exercised the proper oversight of these agencies for the past 25 years, quite possibly many of the abuses would never have occurred.

It is true that the political climate of the times did not require nor did it expect the Congress to play an active oversight role. But, the present times are such that the American people are demanding that we, in the Congress, assume our responsibility, and begin to exercise an active interest in the affairs of the American intelligence community.

The adoption of this measure will be a signal to the American people that the Congress is not only intent upon disclosing illegal practices, but is intent upon preventing similar practices from taking place in the future.

Mr. President, I urge the early adoption of this substitute. To do otherwise will be a message to the American people that their elected representatives are not interested in seeing to it that all aspects of intelligence work are done in accordance with the Constitution and the laws of this Nation.

WATERGATE REORGANIZATION AND REFORM ACT OF 1976

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Watergate Reorganization and Reform Act of 1976, S. 495, as amended, which I reported today, be referred, at the request of the Committee on the Judiciary, to the Committee on the Judiciary, with instructions to report not later than June 11, 1976.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. RIBICOFF. My understanding is that we have satisfied section 402 of the Congressional Budget Act of 1974 by reporting S. 495 from the Committee on Government Operations by May 15, even though the bill, at the request of the Committee on the Judiciary, will be referred to the Committee on the Judiciary. If one committee reports a bill by May 15 and after the bill is reported, another committee requests the bill to be referred to it for a limited period of time, which will result in that second committee completing work on the bill after May 15, have the requirements of section 402 of the Congressional Budget Act of 1974 been met?

The PRESIDING OFFICER. They have been met.

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The Senate continued with the consideration of the resolution (S. Res. 400) to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I understand that there are two nominations at the desk which were reported earlier today by the Committee on Labor and Public Welfare. I ask unanimous consent that the Senate go into executive session to consider those nominations.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

DEPARTMENT OF LABOR

The assistant legislative clerk read the nomination of Michael H. Moskow, of New Jersey, to be Under Secretary of Labor.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of John Conyers Read, of Virginia, to be an Assistant Secretary of Labor.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER FOR RECOGNITION OF SENATOR PROXMIRE ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, after the two leaders or their designees have been recognized under the standing order, Mr. PROXMIRE be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR RECOGNITION OF MR. MONDALE AND FOR ROUTINE MORNING BUSINESS ON TOMORROW; ORDER FOR CONSIDERATION OF UNFINISHED BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after Mr. PROXMIRE and Mr. GOLDWATER have been recognized on tomorrow, under the order previously entered, Mr. MONDALE be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business, with statements therein limited to 5 minutes each, such period not to extend beyond 1 p.m.; that at 1 p.m., the Senate resume consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The Senate continued with the consideration of the resolution (S. Res. 400) to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quroum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I was very struck with Senator MORGAN's statement when he said that 50 years ago, we had a previous scandal that needed cleaning up and rectification. It seems odd that in our country's history, every 50 years something of this sort arises. We had the grant scandals of the 1870's, the Teapot Dome scandal of the 1920's, then we had the Watergate and CIA problems in the 1970's. Let us hope that in the 2020's we do not go through the same cycle again.

Mr. President, I commend the Members of this body who have cooperated so effectively and wisely in developing the compromise amendment on intelligence oversight which has been proposed by the distinguished Senator from

Nevada. A strong intelligence oversight committee will be established if this amendment to Senate Resolution 400 is adopted.

A strong and effective Senate Oversight Committee with legislative authority is required in order to insure that the intelligence activities of the United States directly support American security interests, are conducted under clear legal authority, and do not violate the civil rights of American citizens. The Select Committee headed by the distinguished Senator from Idaho has done an excellent job in studying all facets of the activities of the intelligence community and in making recommendations for legislative action. But it is now essential that legislation be developed and acted upon. That is why I support the creation of the kind of intelligence committee proposed in the amendment before us.

Although I support this amendment, I do have some questions relating to the effect of the amendment on the jurisdiction and activities of other interested committees, particularly the Foreign Relations Committee, of which I am a member. I would therefore appreciate it if the distinguished Senator from Connecticut who has done such a fine job in developing this compromise as the floor manager of Senate Resolution 400, would be so kind as to respond to the following questions:

The Committee on Rules, in its report, raised the possibility that the Hughes-Ryan amendment to the Foreign Assistance Act, which provides for Presidential reports to four standing committees of the Senate on covert actions, may be superseded if an intelligence committee is established. The report states that it is arguable that the Foreign Relations Committee could lose its statutory authority to receive Presidential reports on covert activity. I understand that it is not the intent of Senate Resolution 400 to affect the Hughes-Ryan amendment, but I do believe that it would be useful to clarify the matter in light of what has been said by the Rules Committee.

Mr. RIBICOFF. May I respond this way to the Senator from Rhode Island, who was deeply involved in the Committee on Rules hearings on these proposals: Senate Resolution 400 does not repeal the Hughes-Ryan Act. As a resolution, it could not do so. Accordingly, creation of a new committee will not repeal the requirement of the CIA to brief the Committee on Foreign Relations.

Mr. PELL. I thank the Senator.

Does the granting of exclusive jurisdiction to the proposed intelligence committee over the CIA mean that paragraph 1(i)(1) of Senate rule XXV, which states that the Committee on Foreign Relations has jurisdiction over "relations of the United States with foreign nations generally," should be taken to exclude jurisdiction over CIA activities which have foreign relations implications?

Mr. RIBICOFF. The jurisdiction of the Committee on Foreign Relations over legislation affecting the CIA is not changed by Senate Resolution 400. Legislation which now would go to the Committee on Foreign Relations because of its predominant foreign policy implications, rather than intelligence implications, would continue to go to the Foreign Relations Committee, with the right of the new committee to ask for a sequential referral.

Mr. PELL. I thank my colleague. In section 3, paragraph (b) of the amendment it is stated that "any legislation reported by the select committee, except any legislation involving matters specified in clause (1)"—that is, the CIA—or (4)(A)—CIA budget—"of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committe, be referred to such standing committee for its consideration."

Does that mean that any legislation developed by the proposed intelligence committee relating to CIA activities having foreign policy implications would be referred upon request to the Foreign Relations Committee?

Mr. RIBICOFF. If the legislation reported by the Select Committee has significant foreign policy implications, the Committee on Foreign Relations would be able to ask for a sequential referral of the legislation.

Mr. PELL. I thank the Senator. Later on in that same paragraph, it is stated that—

> Any proposed legislation reported by any committee, other than the select committee, which contains any matter within the jurisdiction of the select committee shall, at the request of the chairman of the select committee, be referred to the select committee for its consideration.

Does that mean that the Committee on Foreign Relations could initiate legislation of its own on CIA activities having foreign policy implications as long as such legislation is referred subsequently to the proposed Intelligence Committee?

Mr. RIBICOFF. That is correct. As I said in response to your second question, such legislation would be sequentially referred to the Intelligence Committee.

Mr. PELL. Finally, section 3, paragraphs (c) and (d), state that other committees may "study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee" and that such committees would "obtain full and prompt access to the product of the intelligence activities of any department or agency of the government relevant to a matter otherwise within the jurisdiction of such committee." Do these provisions mean that the administration would be expected to provide all of the information, which the Committee on Foreign Relations requires, except of course raw data? I recall in this regard that, when I was conducting hearings several years ago on weather modification activities in Southeast Asia, I was denied information on the grounds that the "appropriate" committee—in this case, Armed Services—had been notified.

Mr. RIBICOFF. That is correct. Creation of the new committee should not be used by the intelligence agencies to deny the standing committee any information on any matter with which the committee is concerned, such as an investigation described by section 3(c) of the proposed substitute to Senate Resolution 400.

Mr. PELL. I thank my colleague very much for these answers, which will be an important part of the recommended action on this amendment. I look forward to supporting the Senator.

Mr. RIBICOFF. I thank the Senator very much.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, first, I congratulate the distinguished Senator from Connecticut (Mr. RIBICOFF) and the distinguished Senator from Illinois (Mr. PERCY) on the remarkable job they have done in taking ideas contributed by many Members of the Senate, melding them with their own very important views, and then bringing them here in the form of a legislative proposal that I think is going to pass. I believe it should pass. I take this time simply to express my views and my appreciation to them.

Mr. President, we are finally approaching the climax of a year and a half of an unprecedented investigation into the world of intelligence. When the majority leader and I introduced the resolution in October 1974 that led to the creation of the Select Committee on Intelligence, it was in the aftermath of Watergate, charges of domestic spying by the intelligence agencies and their misuse for political purposes. The last long hard look the Congress had taken at the Nation's intelligence arm occurred in the 1940's—in the wake of the great intelligence failure at Pearl Harbor.

The investigations and exposures of the past year have revealed another type of intelligence failure—this time not a failure of military preparedness but of adherence to the Constitution and the law. The resolution before us today—a product of a bipartisan effort to achieve agreement on essentials—is a significant breakthrough in the effort to remedy the intelligence failure we have recently experienced. The resolution deserves our maximum support.

Today we see presidential hopefuls receiving standing ovations for telling audiences "I promise I will never lie to you." In a democratic society, when a line like that brings people to their feet applauding, you have really hit bottom. Government rests on the confidence of the people. This resolution is designed to restore the confidence of the people in the intelligence agencies. The way to bring the intelligence community out of its present disarray and the drumfire of criticism is to assure the American people that Congress is meeting its constitutional responsibilities to oversee intelligence operations. Only then will the clamor of attack and attention recede.

In this, our Bicentennial Year, the Senate has a special opportunity to renew the values of those who founded this country. Seventeen months ago, on Jan-

uary 21, 1975, the Senate established the select committee to examine the operations of the Government's intelligence agencies. The results of that examination are now before the Senate and the American people. They are profoundly disturbing to the cause of democratic government. For they detail in unmistakable terms the consequences of departing from the constitutional plan drawn by the Founders.

Those who won our independence 200 years ago recognized the necessity to place governmental power under the rule of law. They understood that power carried with it the seed of abuse, and that the exercise of unchecked power is the path to tyranny. That is why we have a government of checks and balances and a written Bill of Rights.

As set out in over 1,000 pages of the select committee's final report, the intelligence operations of the Government have been the exclusive prerogative of the executive branch. For nearly 40 years, Congress has abdicated its constitutional responsibilities to oversee and check the conduct of intelligence operations by the executive. In the resulting vacuum, great damage has been done to our system of government and to the rights of the American people.

The record before us is clear, and it cannot now be ignored or covered up. If we are to profit from history and experience, we must do more than avert our eyes and return to business as usual. In the face of the following facts, surely it is time to reorder our procedures for meeting our constitutional responsibilities:

First. Presidents and other high officials in every administration from Franklin Roosevelt to Richard Nixon have used the intelligence agencies to serve their political and personal objectives. The Huston plan—a noxious laundry list of official criminality—was the ultimate fruit of unchecked bureaucratic and Presidential power.

Second. In the pursuit of "domestic intelligence," large numbers of law-abiding Americans and lawful domestic groups ranging across the political spectrum from conservative to liberal have been subjected to extensive investigation and surveillance. Vicious tactics—violating due process of law and fundamental human decency—have been used to degrade and discredit those marked out as targets for domestic intelligence investigation.

Third. The law has been systematically ignored in the conduct of intelligence operations. In but one example of many uncovered by the select committee, more than a quarter of a million first-class letters were opened and photographed in the United States by the CIA and FBI between 1940 and 1973—in direct violation of the fourth amendment, Supreme Court decisions, and statutory law.

Fourth. In foreign affairs, where the Constitution gives the Congress the exclusive power to determine whether the Nation shall move from a state of peace to a state of war, the Executive has used the intelligence agencies to launch major military actions, such as the abortive invasion of Cuba at the Bay of Pigs, without so much as informing Congress.

In requiring that the new committee must be informed about "any significant anticipated activities," the resolution makes clear that the committee must be provided advance notice about significant intelligence activities. This will avoid such incidents as occurred in April 1961 when the Congress—possessed of the exclusive constitutional power to decide if the Nation shall go to war—had no advance knowledge that a military invasion of Cuba was to be carried out by the executive branch as an "intelligence covert action."

These are merely the surface points of the intelligence iceberg that has been cutting under and around the Constitution over the past generation. Today we begin the historic task of restoring the Framers' plan for a system of effective checks on governmental power. The American people expect the Congress to discharge its constitutional responsibilities. The time is over when Congress can creak along, looking the other way while intelligence operations go unexamined and unchallenged.

The Senate can truly celebrate the Bicentennial by renewing the values of our forebears. The creation of a new intelligence oversight structure will reaffirm the principles that are at the center of our democracy.

The work of the select committee over the past year and a half has opened the way. We need only have the courage to keep to the course. By bringing the intelligence arm of the Government within our constitutional system, we will enable the proper range of intelligence activity to go forward under law in the service of the country.

Mr. RIBICOFF. Mr. President, I wish to respond to the distinguished Senator from Maryland for his gracious comments about my colleague, Senator PERCY, and myself.

It should be pointed out that throughout this matter, Senator MATHIAS made great contributions, and all of us who worked on this legislation could not have achieved the results without his magnificent contributions.

Mr. MATHIAS. I thank the Senator.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 12 noon tomorrow. After the two leaders or their designees have been recognized under the standing order, Mr. PROXMIRE will be recognized for not to exceed 15 minutes, Mr. GOLDWATER will be recognized for not to exceed 15 minutes, and Mr. MONDALE will be recognized for not to exceed 15 minutes. There will then be a period for the transaction of routine morning business not to extend beyond the hour of 1 o'clock p.m., with Senators permitted to speak not in excess of 5 minutes each.

At 1 o'clock p.m., the Senate will resume consideration of the unfinished business, Senate Resolution 400. The pending question at that time will be on the adoption of the Cannon substitute to the committee substitute to Senate Resolution 400. Rollcall votes may occur tomorrow on amendments or motions in relation to any of the foregoing. Other matters may come before the Senate. Conference reports may be called up. Rollcall votes may occur thereon.

ADJOURNMENT

Mr. RIBICOFF. Mr. President, I move that the Senate stand in adjournment until 12 noon tomorrow.

The motion was agreed to; and at 5:54 p.m. the Senate adjourned until Thursday, May 13, 1976, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate May 12, 1976:

DEPARTMENT OF STATE

Philip C. Habib, of California, a Foreign Service officer of the class of career minister, to be Under Secretary of State for Political Affairs.

William D. Rogers, of Virginia, to be Under Secretary of State for Economic Affairs.

Arthur W. Hummel, Jr., of Maryland, a Foreign Service officer of the class of career minister, to be an Assistant Secretary of State.

Harry W. Shlaudeman, of California, a Foreign Service officer of class 1, to be an Assistant Secretary of State.

Phillip V. Sanchez, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Colombia.

Viron P. Vaky, of Texas, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Venezuela.

Robert V. Keeley, of Florida, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mauritius.

IN THE NAVY

Rear Adm. William O. Miller, Judge Advocate General's Corps, U.S. Navy, to be Judge Advocate General of the Navy with the rank of rear admiral, for a term of 4 years.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 12, 1976:

DEPARTMENT OF JUSTICE

Bruce R. Montgomery, of Tennessee, to be U.S. marshal for the eastern district of Tennessee for the term of 4 years.

James R. Cooper, of Georgia, to be a member of the Board of Parole for the remainder of the term expiring September 30, 1978.

DEPARTMENT OF LABOR

Michael H. Moskow, of New Jersey, to be Under Secretary of Labor.

John Conyers Read, of Virginia, to be an Assistant Secretary of Labor.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Congress to take its procurement decision before those tests are complete is to violate the separation between R & D and purchase on which recent Secretaries of Defense have rightly insisted.

The central difficulty with the B–1 is its extraordinarily high cost. The performance standards originally set for it have proved unattainable, and its history, in consequence, has been a familiar one: consistently reduced performance specifications and constantly growing real cost. The 244 bombers the Air Force wants will now cost $20 to $25 billion, at best, and the procurement and operation of the full system will cost many tens of billions more. Yet it remains undemonstrated, after a decade of debate, that there is any long-term strategic value in what may be the most costly single element in the B–1 system—its supersonic capability.

We sometimes hear that the B–1 has been studied enough. A recent statement by an officer of Rockwell International refers in this vein to scrutiny by "seven Secretaries of Defense." But the truth is that the six Secretaries we have had in the last 15 years appear to be divided in their views of the B–1. Robert McNamara is necessarily silent on the matter, but there is little reason to suppose that his views of high-cost penetration bombers have changed in the 14 years since he successfully opposed the unlamented B–70. Clark Clifford strongly opposes the B–1. Melvin Laird and Elliot Richardson favored development but faced no decision on procurement. James Schlesinger, while he believes in the long-run need for a new bomber of some sort, did not press for the B–1 while in office, placing his main budgetary emphasis on conventional needs. He has said that a final decision on this system should await the completion of its technical tests and a demonstration that its costs are under clear control; it seems reasonable that the Senate should adopt at least as strong a standard for itself. It is true that Donald Rumsfeld appears to be an enthusiast, but his experience with procurement pressures is not long.

Far from proving that the matter has been settled by earlier studies, the varied judgments of the Secretaries of Defense of the last 15 years constitute a powerful argument for the Senate to require a hard new look before it acts on procurement. My own strong impression is that among disinterested military and civilian experts no major new weapons system has ever had such feeble support.

An additional and powerful argument for delay is the emergence of at least one interesting alternative to the B–1. The manned bomber, once the dominant element of our strategic deterrent, now necessarily has a very different role. Today it is a supplementary guarantee against the madness of an attempted surprise attack, a diversifier that helps frustrate any Strangelove among Soviet planners. It is far from clear that the current design of the B–1, which would be the most expensive single weapons system ever deployed, properly reflects this more limited role. There is impressive testimony that stand-off bombers with cruise missiles may be cheaper, more stabilizing and easier to protect. Without a fresh, thorough, and comparative review, in which Air Force and industrial pressures are firmly subordinated to the national interest, it will be impossible for the Congress and the public to have confidence that this high-cost trip is necessary.

It is natural, in a time when there is legitimate concern about the military balance between ourselves and the Soviet Union, that a new and undeniably astonishing weapons system should seem attractive to many. But where is the evidence that throwing this enormous amount of money at this one relatively narrow problem will be good for our side of the balance? The likeliest danger of the next five years is weakness in our conventional capabilities, especially in relation to Europe, the Middle East, and the oceans. The B–1 is not going to help us in these areas or in this time-span. The billions we might save by a less expensive choice could help us very much indeed.

It seems especially unwise to make a procurement decision of this kind, with tests incomplete and costs not clear, in the heat of an election campaign. History suggests that our judgment on these complex choices has not been at its best in election years. There was no great hurry about H-bomb tests in 1952, and no missile gap in 1960. There is no bomber gap today.

Obviously the administration is preoccupied with politics and worried about its right-wing critics. But is it not the constitutional role of the Senate, at such a moment, to assert the claims of the long-run national interest, and to insist on its right and duty to get all the evidence before it acts?

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 1 p.m. having arrived, the Senate will now resume consideration of the unfinished business, Senate Resolution 400, which the clerk will report.

The assistant legislative clerk read as follows:

Calendar No. 728, a resolution (S. Res. 400) to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. WEICKER. Mr. President, I ask unanimous consent that Barbara Clarke be granted privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, as we proceed with consideration of Senate Resolution 400, let us not lose sight of why it is that we have again come so far, what it is we seek to accomplish by our actions, and what it is we will lose should we fail to act responsibly.

Neither "Watergate" nor the subsequent investigation of our intelligence community was an aberration. In my own individual views in the Senate Watergate report. I explained that Watergate was a "documented, proven attack on laws, institutions, and principles." The report enumerated 189 separate violations of the Constitution. Every major substantive part of the Constitution was violated, abused, and undermined during the Watergate period, and, indeed, subsequent to it.

The report of the Church committee has since documented abuses and violations of law and the constitutional rights of citizens committed by virtually every agency in our intelligence community. Together, the reports of these two select committees, and the report of the House Intelligence Committee, contain a composite history of national shame.

Over and over again, the record has established with facts governmental abuse of our laws, systems, and ideals.

Three years of fact upon fact upon fact—the Watergate Committee, Church committee, House Judiciary Committee, Special Prosecutors, House Intelligence Committee, grand juries, trials, press investigations, revelations, the Rockefeller Commission, Schlesinger report, and so on.

What did we learn from all of this?

How did it happen?

Well, it happened, Mr. President, because among other things nobody was looking.

When I say nobody, I mean particularly those of us in this Chamber and our compatriots across the way. Nobody in the Congress was looking.

Finger-pointing time is over insofar as it concerns people standing on this floor, looking down at Pennsylvania Avenue or at the agencies are concerned. The time has come to look at ourselves.

There were plots to assassinate foreign leaders, attempts to buy what were supposed to be democratic elections in Italy, weapons provided to aid the Kurdish fight for independence, massive campaigns launched to threaten, discredit, and harass Dr. Martin Luther King and other American citizens, et cetera, et cetera, et cetera.

The CIA alone was not at fault. The FBI and IRS, a tax collection agency, joined in the act.

One fact emerges clearly from this record. Call it what you will, we do not have oversight. We have had weak sight, we have had blind sight, we have had hindsight, we have had shortsight, but we have not had oversight.

I think it is time to draw the line.

Three years of factfinding have given us all the investigations, revelations, and studies necessary to act on the creation of real oversight in the Senate and move on to legislative reform.

Meaningful oversight has constancy, power, and legislative purpose. Intelligence is too important to our national interests and has been proven too dangerous to our individual freedoms to be relegated to an impotent, investigatory committee. Even greater is the potential for abuse when a committee investigates without legislative purpose.

Currently, oversight over the intelligence community is concentrated in no less than four standing committees. At best intelligence oversight is a collateral function, a secondary function, of these committees. At worst, it is an ignored responsibility. None is authorized to legislate for the intelligence community as the consolidated package we know it has become.

Yet, if we leave their jurisdictions intact, we would continue to receive a fragmented picture of intelligence opera-

organized and get down to Washington to present its special problems to the Congress.

What are some of these special problems?

First is the problem of the affect of Government regulation on small business. The countless Census Bureau, OSHA, FEA, IRS, and EPA forms which business is required to fill out these days are a burden on any corporation. However, per unit of output, the cost of meeting these Federal requirements is certainly highest for small business. All too often these forms, and the regulations behind these forms, have such a severe impact on the small firm that it is driven right out of business. If the Select Committee on Small Business, the Small Business Administration, and the regional small business organizations can band together to accomplish just one thing—the education of the Congress as to the differences between small business and big business—they will surely have justified the time and effort that has gone into their creation.

Another problem facing small business is access to credit. By publicizing the horrible impact on small business of the effects of a credit crunch, brought on by either excessive inflation or Government attempts to borrow far more than it should ever reasonably have to do, these organizations can perform a great service by helping to persuade the Government to conduct its fiscal and monetary affairs in a responsible fashion.

I should like again to congratulate Mr. Alexander and to express my hope that this awards program, and the activities of State and regional small business organizations throughout the country, will encourage widespread interest in the success and encouragement of small businesses everywhere. This is the sector of our economy which is the key to upward mobility for our population, and to the competition which is so badly needed to keep our economy running efficiently and in the best interests of the American consumer. It deserves all of the support and attention that we can muster.

SMALL BUSINESS WEEK

Mr. PELL. Mr. President, by Proclamation of the President of the United States, this week is Small Business Week. It is a time when we give recognition to the immense contributions made to the economic life of our Nation by millions of small businesses and businessmen.

I am delighted to join this tribute. All too often we tend to view ourselves as a nation of giant corporations and big business, perhaps because it is the names of those giant corporations that become familiar to us through massive television advertising.

But the average American's daily contacts with business are not with giant corporations, but with the small businesses that provide jobs, manufacture goods and provide services in his neighborhood and community.

Indeed, small business establishments provide 58 percent of business employment in the United States. We are indeed a nation of small independent businesses.

As part of its observance of Small Business Week, the Small Business Administration has selected a small business person of the year from each of the 50 States.

In Rhode Island, the person selected for this honor is Mr. Dwight W. Harry, president of the Life Cap Tire Service, Inc., of Providence. Mr. Harry, after 20 years as an employee and manager of Life Cap Tire Service, 6 years ago became the owner and president.

In his initiative, self-reliance and spirit of independence, Mr. Harry is representative of thousands of other small business proprietors in Rhode Island who are the very foundation of the economy of our State. I congratulate Mr. Harry on his well-deserved honor and extend to him my best wishes for continued success in the future.

Small Business Week is a time not only to recognize the achievements and contributions of small businesses, but also to pay particular attention to the problems that confront the small business community.

I was pleased this week to attend a presentation by the Small Business Association of New England and three other regional small business associations of their legislative proposals designed to give small businesses a fair and equitable chance to grow and to prosper.

I believe many of the proposals offered by the small business associations to relieve small businesses of unnecessary federal government paperwork, to provide more equitable tax treatment, and eliminate unfair competitive practices, are sound and well-conceived. I hope very much that problems confronting small businesses will be given the attention they deserve during the coming months in the Congress.

The small businesses of America are far too important to the economy of our Nation to be neglected.

CELEBRATING SMALL BUSINESS WEEK

Mr. DOLE. Mr. President, in honor of National Small Business Week, the Small Business Administration hosted a series of events in Washington to honor outstanding members of the small business community from across the country. From the more than 13 million small business operations across the country, State, and Nation, small business award winners were selected and invited to Washington to events which focus attention on the importance of small business to the Nation, its workers, and the entire economy. Small business award winners were nominated by SBA district offices across the country on the basis of their businesses' success over a period of time, its impact on the job market, continued growth, and improved financial position, its response to adverse conditions, and personal characteristics of the nominees such as entrepreneurial ability and community service efforts.

The Kansas small business award winner is Mr. Paul G. Wulfsberg, president of Wulfsberg Electronics, Inc., in Overland Park, Kans. Wulfsberg Electronics was formed in 1970 and increased its business by an unbelievable 40 percent per year to its current level of more than $2 million annually. Wulfsberg markets their products worldwide through more than 150 distributors and was recently selected as the Aircraft Electronics Association Manufacturer of the Year.

At the ninth annual Small Business Subcontractor Conference and awards banquet held yesterday, Blanchat Machine Co., of Wichita, Kans., was selected as the SBA region VII winner. Blanchat Machine Co. was nominated by the Wichita division of the Boeing Co. for its outstanding subcontract work. Mr. and Mrs. Calvin Ross and Mr. and Mrs. Wayne, both of Wichita, accepted the award for the Blanchat Machine Co. and its president, Dudley Bramblett.

It is an honor for these businesses to have been selected from the more than 133,000 small businesses in Kansas. My congratulations go out to them and to the award winners from the other 49 States, and I join with my colleagues in recognizing their accomplishments and outstanding contributions of small businesses nationwide.

THE B–1: A LONG LOOK BEFORE BUYING

Mr. CULVER. Mr. President, McGeorge Bundy, whose service as Special Assistant for National Security Affairs under Presidents Kennedy and Johnson has made him intimately familiar with defense issues, has urged deferral of the decision to procure the B–1 bomber. Writing in today's Washington Post, Mr. Bundy calls the billion-dollar request for procurement authorization "premature and unnecessary," and one which could be delayed with "no danger."

Rather than acting in the heat of an election campaign, Mr. Bundy urges the Senate to assert the claims of the long-run national interest, and to insist on its right and duty to get all the evidence before it acts.

Mr. President, I consider Mr. Bundy's article a most valuable contribution to our consideration of the B–1 program, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE B–1: A LONG LOOK BEFORE BUYING

(By McGeorge Bundy)

Sometime this month the Senate will debate a defense bill that contains a billion-dollar authorization for the actual procurement of the B–1 bomber. This premature and unnecessary propcsal, heavily pressed by the Air Force and by Rockwell International, should be deferred until there can be a thorough review outside the pressures created by an election year. There is no danger in such a delay, and there could be great advantage.

There is no danger in delay because there is clear agreement that the B–52 strategic system can be relied on with confidence for at least a decade to come. The B–52 has proved to be one of our most durable and improvable aircraft. It is not any present need but an intense desire to get the matter settled their way that is moving the military and industrial advocates of the B1.

But precisely when there is that sort of pressure for a decision not yet needed, the Senate should be wary. The B–1 has not completed its technical tests, and to ask

tions and would be handicapped in developing legitimate legislative remedies.

For all too long this vital sector of our Government has gone unchecked and unsupervised. It has operated under a series of executive orders, departmental directives and guidelines. Until last year not one congressional committee had examined either the propriety or effects of this departure from the norm.

I think the time has come to say it again and again, Mr. President: We are a Government of laws. It is not enough to say we remember these things and so they will not happen again. We are not a Government of memories, we are a Government of laws.

It is not enough to get up after the abuses have taken place and say, "I apologize". We are a Government of laws, not a Government of apologies.

It is not enough to go ahead and issue an executive order. Here today, gone tomorrow. We are a Government of laws, not a Government of executive orders.

The examination of agency charters, the establishment of a statutory foundation for agencies like the National Security Agency, the efficiency and effectiveness of the Defense Intelligence Agency, and the legislative recommendations of the Church committee are functions which must be assumed by a new, permanent intelligence committee.

The proposal for strengthened intelligence oversight is neither new nor unique. More than 20 years ago the distinguished majority leader introduced similar legislation. Since 1948 nearly 200 bills have been introduced in both houses. Three commissions—beginning with the Hoover Commission in 1955—endorsed proposals calling for more effective oversight.

I would like to use this particular moment in my speech, Mr. President, to pay particular compliments to the majority leader (Mr. MANSFIELD) and to the chairman of the Senate Committee on Government Operations (Mr. RIBICOFF). Were it not for these two men, I have no doubt that Senate Resolution 400 would not be on the floor today.

The Senate majority leader, who is not a Johnny-come-lately, is not riding a bandwagon, but, rather, foresaw the dangers 20 years ago. Had his advice been followed, there would have been no necessity for the rather sensational revelations of the past few years.

As he retires from a fruitful and a very positive career in public service, I want to pay the credit that is due. Should this pass and this idea become law, then, indeed, it should be dedicated to this man, because nobody has been further out front on the issue than MIKE MANSFIELD and my colleague from the State of Connecticut.

This particular idea was one of several right after the Watergate. Over the course of 3 years I have seen those ideas of Watergate reform, tax privacy, intelligence oversight, nibbled to death by the power structure, either in the Congress or the executive or the bureaucracy.

The nibbling finally came to an end when two of these important measures came into the hands of the senior Senator from Connecticut (Mr. RIBICOFF). He used that knowledge gained over many years of public service, and that ability which he has demonstrated over the years, to insist that these measures no longer be nibbled to death or fade away into the mist, but, rather, become the law of the land. Were it not for the hard-nosed position which he has taken over the past several months, I know that these measures would not be before us for consideration by the Senate.

Mr. RIBICOFF. Will my distinguished colleague yield?

Mr. WEICKER. I yield.

Mr. RIBICOFF. I appreciate the gracious comments of my colleague from Connecticut, but I believe the record should be clear that no other Member of this body in many, many years has shown such a continued dedication to the preservation of individual rights and liberties. It has been the consistent policy and philosophy of my junior colleague from the State of Connecticut. When the history of this era is written, there will be a special place accorded to the junior Senator from Connecticut for his continued advocacy and fight in this cause.

Mr. WEICKER. I thank my friend and colleague from the bottom of my heart.

The crux of this issue is accountability of Government to the people—constitutional accountability. In the past, Members of this body have chosen not to know because there were things which gentlemen ought not to know. Well, it is our responsibility to assure that those things which gentlemen ought not to know, never reoccur.

We can no longer pass off illegal activities as the work of the White House, because we have learned the hard way that even the White House must be controlled. That was precisely what was intended by our forefathers when 200 years ago when they established a system of checks and balances to govern this Nation.

It is not a system of checks and balances which excluded the CIA, the FBI, the IRS, and the various intelligence-law enforcement agencies, but a system of accountability for all the Government, for all the people. It is not a system which was intended to have Senators, Presidents, or corporate executives at one level and everybody else at another. It is for all the people.

Through the past failure of Congress to demand to know about the activities of intelligence agencies—the people, through the fault of their elected representatives lost a constitutional power—to control the excesses of the executive. Plainly and simply, the elected representatives abrogated their constitutional responsibility.

And, Mr. President, if I have been hardnosed insofar as our colleagues in the executive are concerned, I think the record should also show something else. At a time when we celebrate a Bicentennial in the middle of an election year, I see from the statistics fewer and fewer Americans participating in their democratic processes. I hear the comment from too many, "I am turned off by those politics."

Let us make it clear. If we have a job of oversight as representatives of the people, if the President has a job to conform the agencies to the Constitution, then the people of this country have a job, and it is specifically to get the best men and women to serve.

There will be no greater ethics or excellence on the floor of the Senate or in the White House, or anywhere in our Government, than in the voting booths of this country. So the finger-pointing cannot only stop from us on the Hill, but it can also stop from the American people until they themselves become active participants in this constitutional democracy.

Today we are here to regain that authority and start exercising it. When we vote in a few days, we will see whether a majority of Members of this body are willing to assume the responsibilities bestowed upon them by their constituents. The Senate must decide if the preservation of the status quo is more important than the resurrection of constitutional accountability.

Let me state clearly, there is no reason for anybody in this country to have to choose between effective law enforcement and effective intelligence and constitutionality. One can go along with the other. I am particularly appalled by those who would make the American people choose, and say, "You have to choose one or the other." No, you can have both.

There is not one man on the Government Operations Committee or in any other committee which discussed this matter on which I have been privileged to sit who does not believe in having an effective CIA and an effective FBI. They are clearly necessary to the security of the Nation. But there is no reason why, in the achieving of that effectiveness, the Constitution has to be left in the dust. No way.

Sure, it is going to have to change from the old system, from the old practices. Democracy, which we say is exercised by 100 Senators, is going to have to be exercised by 10 Senators, not 2, 3, or 4.

Democracy and the Constitution, which we talk about as belonging to all Americans, are going to have to belong to all Americans, not just a few. Concerning the scare tactic and the scare talk that if we have accountability, if we have oversight, we will lose our intelligence or law enforcement effectiveness, how effective is it to be investigating Americans rather than conveying intelligence about our enemies abroad?

How effective is it to have these agencies involved in politics, on the domestic side, rather than intelligence gathering?

I remember that one very small instance of military intelligence in West Berlin which arose during the Watergate hearings where military intelligence was breaking into the rooms of American citizens in West Berlin and coming out with autographed pictures of GEORGE MCGOVERN—that was what we were paying for as taxpayers—rather than giving us the intelligence which obviously we needed to know: what the Russians were doing on the other side of the wall. That is what I want to know. I do not want to know what somebody else's po-

litical beliefs are or for whom they are going to vote.

Have no fear as far as this country is concerned should this oversight and accountability come into being. Then we are going to have them do the job which is intended, which is intelligence gathering, which is law enforcement, rather than a political hatchet job willy-nilly across the world and in this country.

We have before us a compromise which the members of the Rules Committee, the Government Operations Committee, and the Church committee labored diligently to provide this body. This compromise sets up the framework for effective oversight by giving a new committee strong authority and the muscle to back up its actions. By requiring rotating membership, we will avoid making the new committee a handmaiden of the agencies it is supposed to oversee.

In essence the compromise substitute offers the Senate an opportunity for meaningful oversight—oversight with authority and constancy.

And most importantly, it offers to the United States of America a return to its Constitution.

I received a notification the other day from some organization that felt that patriotism could best be served by having Senators re-sign the Declaration of Independence. How insulting. I think the time has come for every Senator to relive the Declaration of Independence, the Bill of Rights, and the Constitution. Never mind the business of signing, never mind the business of buying, but to live it, to live it legislatively here; for all Americans to live it in their lives out there on the streets, when it comes to these great concepts of equality for all Americans, due process for all Americans, privacy for all Americans, freedom of speech and assembly and dissent for all Americans.

What we do on this Senate floor here in the next several days will not cost the taxpayers a nickel and it will give the greatest possible value to the celebration of our Bicentennial.

I yield the floor.

Mr. GOLDWATER. Mr. President, the conduct of America's foreign policy relies heavily upon accurate and timely intelligence. Since the enactment of the National Security Acts of 1947 and 1949, an intelligence community has been created which is second to none.

While there have been errors over the years, in my opinion, the overall performance of the intelligence services has been outstanding.

There is an old saying among intelligence officers: The safest operation is where nothing happens. Once you go from doing nothing to doing something, the risk of failure or disclosure must be accepted.

Vital to the performance of our intelligence services is a cloak of secrecy. Without that cloak of secrecy, sources of information disappear and those persons and organizations who would cooperate with us fall away under the glare of publicity.

One of the most controversial items that the Select Committee on Intelligence had to deal with is the subject of covert action. I believe the President must have the ability to carry out covert actions, because they provide methods short of war to defend America's interests.

In other words, the President should not be limited to diplomatic representation or economic sanctions on the one hand and the choice of outright war on the other hand. Covert action offers a range of options between these two choices.

The Hughes-Ryan amendment which requires six committees of the Congress to receive notification of covert action has all but destroyed this capability. Under its provisions nearly 50 Senators, over 120 Congressmen, and numerous staff receive this highly sensitive information. Disclosure to the press is the inevitable result.

If the Congress wants to create a new committee to have legislative and budgetary authority over the intelligence community, I submit that should be a joint committee of the Congress patterned along the lines of the Joint Committee on Atomic Energy.

A joint committee combined with a repeal of the Hughes-Ryan amendment could be an attractive proposition. Although the House of Representatives has taken a dim view of the creation of joint committees over the past 15 years or so, there is reason to believe that the House may be willing to make an exception where intelligence jurisdiction is concerned.

Last Friday, one of our most distinguished colleagues in the House, Representative ELFRED A. CEDERBERG of Michigan, introduced a joint resolution to provide for the establishment of a joint committee on intelligence. Joining him were the distinguished Minority Leader of the House, Representative JOHN R. RHODES and Representative DELBERT L. LATTA of the House Rules Committee. It is my understanding that Representative CEDERBERG is seeking bipartisan support for his joint resolution. I ask unanimous consent that Mr. CEDERBERG's resolution be printed at this point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

JOINT RESOLUTION

Joint resolution to provide for the establishment of a Joint Committee on Intelligence

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

ESTABLISHMENT

SECTION 1. There is hereby established a Joint Committee on Intelligence (hereinafter in this joint resolution referred to as the "joint committee").

MEMBERSHIP

SEC. 2. (a) The joint committee shall be composed of nine Members of the Senate and nine Members of the House of Representatives to be appointed as follows:

(1) five Members of the Senate from the majority party and four Members of the Senate from the minority party, appointed by the President of the Senate, including at lease one but not more than two members from each of the following committees: the Committee on Appropriations; the Committee on Armed Services; and the Committee on Foreign Relations; and

(2) five Members of the House of Representatives from the majority party and four Members of the House from the minority party, appointed by the Speaker of the House, including at least one but not more than two Members from each of the following committees: the Committee on Appropriations; the Committee on Armed Services; and the Committee on International Relations.

(b) Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original appointment.

(c) (1) The joint committee shall select a chairman and a vice chairman from among its members at the beginning of each session of a Congress. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman.

(2) The chairmanship and the vice chairmanship of the joint committee shall alternate between the Senate and the House of Representatives with each session of a congress. The chairman during each even-numbered year shall be selected by the Members of the House of Representatives on the joint committee from among their number and the chairman during each odd-numbered year shall be selected by the Members of the Senate on the joint committee from among their number. The vice chairman during each session of a Congress shall be chosen in the same manner from that House of Congress other than the House of Congress of which the chairman is a Member.

DUTIES

SEC. 3. (a) The joint committee shall exercise exclusive legislative jurisdiction with respect to any intelligence activity conducted by any agency or department of the Federal Government and the authorization of funds in connection with any such activity conducted by—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) special offices within the Department of Defense for the collection of specialized intelligence through reconnaissance programs;

(5) intelligence elements of the military services, not including tactical intelligence; and

(b) The Joint Committee shall review and study on a continuing basis any intelligence activity conducted by any agency or department of the Federal Government, including any agency or department described in paragraph (1) through paragraph (6) of subsection (a).

(c) The provisions of clause 2 of rule X of the Rules of the House of Representatives shall apply to the joint committee.

POWERS

SEC. 4. (a) The joint committee, or any duly authorized subcommittee thereof, is authorized to sit and act at such places and times during the sessions, recesses, and adjourned periods of the Congress, to require by subpena or otherwise the attendance of such witinesses and the production of such books, papers, and documents, to administer such oaths and affirmations, to take such testimony, to procure such printing and binding, and to make such expenditures, as it considers advisable.

(b) The joint committee may make such rules respecting its organization and procedures as it considers necessary, except that no recommendation shall be reported from the joint committee unless a majority of the joint committee assent.

(c) Subpenas may be issued over the signature of the chairman of the joint committee or of any member designated by him or the joint committee, and may be served by

any person designated by such chairman or member.

(d) The chairman of the joint committee or any member thereof may administer oaths or affirmations to witnesses.

(e) The joint committee may permit any individual designated by the President as a liaison to the joint committee to attend any meeting of the joint committee which is closed to the public.

INFORMATION FROM FEDERAL AGENCIES AND DEPARTMENTS

SEC. 5. Any agency or department of the Federal Government described in section 3(a)(1) through section 3(a)(6) and any other agency or department of the Federal Government conducting any intelligence activity, shall keep the joint committee fully and currently informed with respect to any such activity. Any such agency or department shall furnish any periodic reports requested by the joint committee with respect to any such activity.

REPORTS

SEC. 6. The members of the joint committee who are Members of the Senate shall from time to time (but at least annually) report to the Senate, and the members of the joint committee who are Members of the House of Representatives shall from time to time (but at least annually) report to the House of Representatives, by bill or otherwise, their recommendations with respect to matters within the jurisdiction of their respective Houses which are referred to the joint committee or otherwise within the jurisdiction of the joint committee.

CLASSIFICATION OF INFORMATION

SEC. 7. The joint committee shall classify information originating within the joint committee, and the records of the joint committee, in accordance with standards used generally by the executive branch of the Federal Government for the classification of information. The joint committee shall establish guidelines under which such information and records may be (1) maintained; (2) used by the staff of the joint committee; and (3) made available to any Member of the Congress who requests such information or records and has an appropriate security clearance, as determined by the joint committee.

RECORDS

SEC. 8. The joint committee shall keep a complete record of all joint committee actions, including a record of the votes on any question on which a record vote is demanded. All records, data, charts, and files of the joint committee shall be the property of the joint committee and shall be kept in the office of the joint committee or such other places as the joint committee may direct.

UNAUTHORIZED DISCLOSURE OF INFORMATION

SEC. 9. (a) The joint committee shall establish and carry out such rules and procedures as it considers necessary to prevent—

(1) the disclosure, outside the joint committee, of any information which (A) relates to any intelligence activity which is conducted by any agency or department of the Federal Government; (B) is obtained by the joint committee; and (C) is not authorized by the joint committee to be disclosed; and

(2) the disclosure, outside the joint committee, of any information which would adversely affect the carrying out of any intelligence activity by any agency or department of the Federal Government.

(b) No employee of the joint committee or any person engaged by contract or otherwise to perform services for the joint committee shall be given access to any classified information by the joint committee unless such employee or person has received an appropriate security clearance as determined by the joint committee. The type of security clearance to be required in the case of any such employee or person shall, within the determination of the joint committee, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by the joint committee.

(c)(1) The joint committee may take appropriate action against any member of the joint committee, or any person serving on the staff of the joint committee, who violates any provision of this section or any provision of section 7.

(2) In the case of a member of the joint committee, such action may include (A) the censure of such member by the joint committee; (B) the expulsion of such member from the joint committee, unless such expulsion is objected to by a majority vote in the Senate or the House of Representatives, as the case may be; and (C) recommendation to the Senate or the House of Representatives, as the case may be, by the Senate or the House of Representatives.

(3) In the case of a person serving on the staff of the joint committee, such action may include the immediate dismissal of such person. The joint committee shall report to the Attorney General of the United States any apparent violation of any Federal criminal law committed by any such person in connection with a violation of any provision of this section or any provision of section 7. The Attorney General, upon receiving any such report, shall take such action as he considers necessary or appropriate.

STAFF

SEC. 10. (a) In carrying out its functions under this joint resolution, the joint committee may, by record vote of a majority of the members of the joint committee—

(1) appoint, on a permanent basis, without regard to political affiliation and solely on the basis of fitness to perform their duties, not more than twenty-four professional staff members and not more than sixteen clerical staff members;

(2) prescribe their duties and responsibilities;

(3) fix their pay at respective per annum gross rates not in excess of the rate of basic pay, as in effect from time to time, for grade GS–18 of the General Schedule of section 5332(a) of title 5, United States Code;

(4) terminate their employment as the joint committee may consider appropriate; and

(5) require, at the time of appointment, all staff persons to acknowledge their unconditional adherance to the policy of the joint committee governing the disclosure of classified information.

(b) In carrying out any of its functions under this joint resolution, the joint committee may utilize the services, information, facilities, and personnel of any agency or department of the Federal Government, and may procure the temporary (not to exceed one year) or intermittent services of experts or consultants or organizations thereof by contract at rates of pay not in excess of the per diem equivalent of the rate of basic pay, as in effect from time to time, for grade GS–18 of the General Schedule of section 5332(a) of title 5, United States Code, including payment of such rates for necessary traveltime.

EXPENSES

SEC. 11. The expenses of the joint committee shall be paid from the contingent fund of the House of Representatives, from funds appropriated for the joint committee, upon vouchers approved by the chairman of the joint committee.

DEFINITION

SEC. 12. For purposes of this joint resolution, the term "intelligence activities" means—

(1) the collection, analysis, production, dissemination, or use of foreign intelligence, which means information, other than foreign counterintelligence, on the capabilities, intentions and activities of foreign powers, organizations, or their agents; or foreign counterintelligence, which means activities conducted to protect the United States and United States citizens from foreign espionage, sabotage, subversion, assassination, or terrorism;

(2) any action or activity which is undertaken in support of any activity described in paragraph (1);

(3) any covert or clandestine activity affecting the relations of the United States with the government of any foreign country or with any political group, party, military force, or other association in a foreign country;

(4) any covert or clandestine activity undertaken against any person described in paragraph (4);

but such term does not include any tactical military intelligence activity which is undertaken in a foreign country and which is not related to any policymaking function of the United States.

AMENDMENTS TO RULES OF THE HOUSE OF REPRESENTATIVES

SEC. 13. (a) Clause 1(c)(1) of rule X of the Rules of the House of Representatives is amended by inserting immediately before the period at the end thereof the following: ", except for matters exclusively within the legislative jurisdiction of the Joint Committee on Intelligence".

(b) Clause 1(c)(2) of rule X of the Rules of the House of Representatives is amended by inserting immediately before the period at the end thereof the following: ", except for matters exclusively within the legislative jurisdiction of the Joint Committee on Intelligence".

(c) Clause 1(c)(10) of rule X of the Rules of the House of Representatives is amended by inserting immediately before the period at the end thereof the following: ", except for matters exclusively within the legislative jurisdiction of the Joint Committee on Intelligence".

(d) Clause 1(k)(1) of rule X of the Rules of the House of Representatives is amended by inserting immediately before the period at the end thereof the following: ", except for matters exclusively within the legislative jurisdiction of the Joint Committee on Intelligence".

CONFORMING AMENDMENT

SEC. 14. Section 662(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2420(a)) is amended by striking out "the appropriate committees of the Congress, including the Committee on Foreign Relations of the United States Senate and the Committee on Foreign Affairs of the United States House of Representatives" and inserting in lieu thereof "the Joint Committee on Intelligence and the Committees on Appropriations."

Mr. GOLDWATER. If the Senate adopts S. Res. 400 as reported by the Rules Committee, it will enable us to have immediate oversight of the intelligence community. More importantly, it will give the House and the Senate time to work out mutually acceptable ways of handling intelligence jurisdiction.

I oppose S. Res. 400 as reported by the Government Operations Committee for two main reasons:

1. The Senate has created, under S. Res. 109, a committee on committees to go into the whole question of Senate jurisdiction.

2. There is no provision for a parallel organization in the House of Representatives.

Above all, the disclosure provisions of S. Res. 400 as reported by the Govern-

ment Operations Committee are so loose that they would make the functioning of the intelligence community almost impossible.

I would like to draw my colleagues' attention to Sec. 7(c)(2) which states:

The Committee on Intelligence Activities, or any member of such committee, may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the Committee on Intelligence Activities, or any member of such committee, makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee which, receives any information under this subsection, shall make the information available to any other person, except that a Senator may make such information available either in a closed session of the Senate, or to another Member of the Senate; however, a Senator who communicates such information to another Senator not a member of the committee shall promptly inform the Committee on Intelligence Activities.

I cannot imagine any President agreeing to such language. If this language were adopted, I believe it would lead to a Constitutional confrontation which would be contrary to the interests of both the President and the Congress.

In fact this language reminds me of one of Pogo's famous quotes:

We have met the enemy, and they is us.

While I believe the Senate should defer action concerning intelligence jurisdiction until the Committee on Committees has had a chance to act, I am fully aware that there are members of this body who disagree. I am willing to accept as a compromise S. Res. 400 as reported by the Committee on Rules and Administration. This would be a logical step pending some form of agreement between the House and the Senate as to how intelligence matters are to be handled in the future.

Mr. President, I intend to oppose any amendments or substitutes that would confer legislative or budgetary jurisdiction over the intelligence community to a new committee of the Senate at the present time.

Mr. MONDALE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. GLENN). The Senator will state it.

Mr. MONDALE. Are we on controlled time?

The PRESIDING OFFICER. There is no controlled time.

Mr. MONDALE. Mr. President, I would like to speak briefly on behalf of the pending resolution to create a permanent committee on oversight with the authority necessary to assure that that committee would be privy to crucial information it must have, and so it would have the authority to influence policy in secret where, as is often the case, it can only be handled responsibly in that environment.

This resolution is the result of 15 months' work of the Select Committee on Intelligence, and it is the result of several weeks of negotiations and serious discussion on the part of the Committee on Government Operations under the chairmanship of the distinguished floor manager (Mr. RIBICOFF) and that of the Committee on Rules and Administration under the chairmanship of the Senator from Nevada (Mr. CANNON).

I believe the present resolution is a well-drafted, carefully prepared, and practical document, which gives this committee the authority it must have. It provides a membership that is representative of the Senate. It provides guarantees that secrets will be kept and, in effect, meets the problem that has been unmet, although discussed for years, namely, of creating a requirement of accountability to Congress over the intelligence activities of the whole range of intelligence agencies.

I think the bottom line of this issue is very simple and yet very profound. If there is one lesson that our committee felt above all must be learned from our study of the abuses which have been reported, it has been the crucial necessity of establishing a system of congressional oversight.

INTELLIGENCE COMMUNITY OVERSIGHT

The Senate confronts today what can only be called a historic challenge: whether our unique system of constitutional checks and balances, the hallmark of American Government, will be applied to a crucial area of Government activity—the conduct of intelligence operations at home and abroad. This is a vital area: intelligence affects the basic security of the Nation. Equally important, as we found, it can affect our fundamental constitutional rights—the rights that make Americans unique among the peoples of the world. The question is whether the Senate will at last establish effective legislative oversight over the multibillion-dollar U.S. intelligence community.

Some have predicted that the Senate will fail to do so. I cannot agree. I believe there is strong support for a new and effective intelligence legislative oversight committee. There is no better gift we could give this country on its 200th anniversary than to insure that the basic principles of American constitutional Government apply to the powerful secret intelligence activities of our Nation.

Why do we need a committee in the Senate that centralizes legislative authority and oversight of the intelligence community? I believe the reasons are several, and they are very clear.

First, such a committee is necessary in order to help safeguard against the kind of abuses and excesses uncovered by the select committee. The intelligence community has been extremely important to American security. But on occasion it also has operated beyond the law and outside the constitutional system of public accountability. We are all familiar with the results.

Under several administrations, Democratic and Republican alike, the CIA was a party to assassination plots. There are disturbing questions as to whether there may be some connection between our own Government sponsoring assassination and our Nation having become a victim of it. These assassination efforts were only a part of a wider program of covert operations abroad. The select committee found that these operations, in the long run, often proved marginal or self-defeating, and when exposed, extremely damaging to our Nation's international reputation.

Covert action was once an extraordinary measure resorted to by our country in order to combat the covert operations of international communism. But it went beyond that and took on bureaucratic momentum, and ultimately became a routine part of how our Government does business.

We have paid an enormous price for excessive use of covert action. America is now blamed, often falsely, for every adverse development in the world—from the war in Lebanon to the assassination of King Faisal.

At home, our committee found that we came perilously close to a police state:

Telephones were tapped at will, without a warrant, and with little or no authority.

Mail was opened in knowing violation of law: no one was safe from having their mail opened, not even Richard Nixon, not Frank Church, not Leonard Bernstein, not Arthur Burns. Every one of them had their mail opened by agencies of the Federal Government in violation of a clear law, which they knew to be in place.

People whom the FBI or the White House did not like could be put under surveillance, their friends turned into informers. They could find themselves bugged and tapped, and even subject to covert action.

Their families were disrupted,

Their reputations were ruined,

their jobs were taken away from them, and all beyond the due process protections of the law. And inevitably, when these programs were not enough, the FBI sought to incite violence between rival groups. And if that led to killings, that apparently was acceptable to those to whom we entrusted safeguarding the public order.

I emphasize that these were not isolated instances—they were major programs; they were systematic; they lasted for years, and even decades. They involved tens of thousands, hundreds of thousands of Americans innocent—and I underscore that, innocent—as of any crime. No one was safe.

Let me cite a classic example to convey how far some in the FBI, in one instance, were prepared to go to carry out secret political activities against our democratic system of government. It, of course, is the case of Dr. Martin Luther King. We are all pretty familiar with the outlines of what happened. But I do not think anyone in this body is fully familiar with how far the FBI was prepared to go to gain control over the civil rights movement.

They bugged and tapped Dr. King.

They tried to destroy his reputation—even after his death.

They sent a letter which some interpreted as a suggestion that he commit suicide.

But that was not the end of it. Some the bureau not only wanted to destroy

Martin Luther King as a leader, but the committee found clear evidence that some even wanted to create a new Black leader in his place—a Black leader they could consider safe and reliable to head a major social and political movement in this country.

How far we have come from the principles of American Government established 200 years ago. But how wise the founding fathers were to know that this could happen without a system of checks and balances. The one thing above all that the constitutional framers feared was abuse of governmental power and secret police. They did not anticipate that risks to freedom came from the people. The Founding Fathers, above all, feared that it was the government that would subvert and undermine our systems of leadership.

That is the thing they were afraid of beyond all others.

So, as we consider this question of whether there will be strong oversight, I think we must be very clear about what we are dealing with. Because the record shows that contrary to the constitution, contrary to the laws, contrary to the authority of Congress, for many years and in many different ways, our intelligence agencies in the foreign field started wars without our knowledge and without authority, and subverted foreign governments without our knowledge.

Indeed, there is evidence that they decided to assassinate foreign leaders without our knowledge and without our approval—and, indeed, in some instances, without the knowledge of some people high in Government.

The intelligence agencies pursued a private foreign policy often based on violence without the authority or knowledge of the Congress.

Similarly, at home, there has been a pattern of conduct by our intelligence agencies who illegally and, often unconstitutionally, infringed upon the rights of the American people. Once again, without the knowledge of the Congress and, also, without the knowledge of persons higher up in the executive.

If that can happen, then it seems to me that we have fundamentally undermined the accountability provisions of the Constitution. If uncorrected, then we will have conceded a vast area of authority to the executive in a way that would have been abhorrent to the framers of our Constitution. That is the first and foremost issue we face.

Mr. President, the second major reason for a strong legislative oversight committee is that it will induce a stronger, more effective, U.S. intelligence effort.

I underscore the second point, because practically all the dialog and discussions that have occurred to date in the public has been that we need this oversight committee to try to prevent abuses. But the truth of it is that there is an equal, though sometimes ignored, argument that we need this oversight committee to make certain that those agencies are fully protecting us from dangers abroad and at home, which was the reason, in the first place, for their creation.

I shall cite some specific examples that show that during history, unknown to Congress, serious risks have been run because of practices and policies in those agencies that left us defenseless when we needed a defense. I believe in a strong intelligence community. I believe in a strong FBI, and I believe in a strong CIA. We must have them. I believe, also, that it is necessary to conduct clandestine intelligence activities in order to protect this Nation from external enemies. Unfortunately, we do not live in the most perfect of all worlds, and it is necessary from time to time, I deeply regret to say, to resort to covert activities.

I believe it is necessary to carry out undercover investigations, both to enforce the law and, in certain selective cases, to protect our country from terrorism and from foreign spying. But I do not believe that these activities can exist outside the law and without accountability to Congress and the people. I do not accept the idea that a strong intelligence effort requires a weak Congress. The record shows that with weak oversight, some of our most vital intelligence has not been as effective as it should be.

The Senate Select Committee found several extremely important instances in which the intelligence community has fallen down on the job. These failures would not, in my opinion, have taken place if there had been an instrument for effective legislative oversight. Let me cite a few examples.

For many years, our counterespionage effort was in a shambles. Now, we cannot do without counterespionage—it is the crucial minimum—we must know what our enemies are trying to do to us. But for years, the counterespionage effort was lost in the past. It ignored the present. It was paranoid about the exploitation of important leads. And the crucial task of coordination of counterespionage activities between the FBI and the CIA broke down. It simply did not exist for several years.

Many important leads were not followed up because there was a paranoid view that they were all plants and were set up by opposing powers.

The second point. That is the crucial task of coordination of counterespionage activities between the FBI and CIA broke down.

There was a long period when, for silly, personal reasons, the FBI and the CIA had no relationship whatsoever. They refused to talk to each other. There was no communication between our two crucial agencies to protect us in the counterintelligence field. That is absolutely crucial, because spies and counterintelligence activities do not know political boundaries. They flow in and out of countries; and sometimes a person we are interested in will be overseas and sometimes he will be at home, in the United States. You must follow them if you are going to protect this Nation. However, for several years, as I say, for silly, personal reasons, the two agencies had no communication whatsoever. I believe that an effective oversight committee would have perceived that and would have done something about it and put us in a better position to defend ourselves than that in which we found ourselves.

Left to themselves, the intelligence agencies could not make the changes necessary to overcome these breakdowns. Counterespionage was isolated, compartmented, and the effectiveness of our efforts declined to the point where America was, for too long a time, dangerously exposed to the enemy. Indeed, we may not know for many years in the future just how exposed we were.

The field of foreign intelligence collection provides another example. For more than a decade we concentrated top intelligence priority on the backwaters of the world while giving lesser priority to our major adversaries. This misallocation of effort not only led us into trouble in many corners of the world, it got us nowhere with our main enemy.

At home, our effort against foreign intelligence services has taken a back seat to domestic snooping. Indeed, even our law enforcement efforts have suffered by comparison to our domestic intelligence operations. The FBI has spent twice as much on domestic intelligence informants than it has on organized crime informants. And for all this domestic intelligence effort, there is so little positive to show for it. Few acts of violence can legitimately be said to have been prevented. The number of arrests and convictions is paltry.

Our task in the Senate is not to create an oversight committee to punish the intelligence agencies, or to prevent them from doing the job they have to do. To the contrary, we want to create a legislative oversight body that will make it possible for the intelligence community to do a better job; because they need to do a better job.

These, then, are the reasons for a strong legislative oversight committee.

In devising the appropriate kind of committee, we must begin by recognizing two major points:

First, intelligence is a unique form of governmental action:

Because of the need for secret operations;

Because of the potential for abuse;

Because of its importance to the security of this country; and

Because of the fact that the various forms of intelligence activity blend from one to another regardless of the agency conducting them.

Second, we now have the worst possible system for congressional oversight of intelligence. Responsibility and authority are fragmented in several committees; it is impossible to look at intelligence as a whole; because authority and responsibility are not welded together, we are incapable of dealing with problems privately, and there is the inevitable temptation to deal with them through leaks. And finally, the committees that currently examine the intelligence agencies do so as an adjunct to their principal business.

Mr. President, let me elaborate a little on these points. To say that the present system of oversight is inadequate is not aimed at criticizing the existing committees with jurisdiction in this area. These committees have enormous responsibilities—the Armed Services Committee deals with our $100 billion Mili-

tary Establishment; the Judiciary Committee must oversee our extremely complicated judicial and legal system, plus a host of other matters; the Appropriations Committee has responsibility for appropriating moneys for the entire Federal Government.

It is no wonder that these committees do not have the time to go into the necessary detail which is essential for real intelligence oversight, because it is the details that count. It is in the details that intelligence operations go awry, become an embarrassment or an abuse.

Moreover, each of the standing committees only has a piece of the puzzle. Yet, we have found, it is how these agencies interact that is often the crucial problem, both from the standpoint of abuse and from the standpoint of effectiveness.

Mr. President, I believe we must establish a single committee with primary legislative jurisdiction over all national intelligence: the CIA, the FBI, the DIA, the NSA. It should have exclusive authority over the CIA for legislation and annual authorization.

It should also have the power to authorize appropriations for all national intelligence activities. On this and other legislative matters, there should be concurrent jurisdiction shared with the Commitees on the Judiciary, Armed Services, and Foreign Relations. They have a legitimate and real interest in many of these activities and it is not desirable, in my view, to screen them off from it. What we want to achieve is a centralization of basic legislative authority and oversight, balanced against the continuing needs of the standing committees.

Congress has only two types of power: the power to disclose and the power to control money. For intelligence, disclosure canot be the primary remedy. Annual budget authorization is crucial to effective oversight for two reasons.

For example, the CIA Operation Chaos was done in the name of domestic counterintelligence, ordinarily the FBI's responsibility. On the other hand, many FBI burglaries were conducted for the National Security Agency and other foreign intelligence agencies. The National Security Agency watch lists for selecting cable traffic derived mainly from FBI requirements and those of other domestic intelligence agencies. The IRS was used by the FBI. The post office was used by the CIA in support of the FBI, in violation of the law.

Indeed, it is not possible to investigate one part of the intelligence community without delving into another. For example, the Select Committee has recently found new files on foreign assassinations in the FBI which were apparently withheld either wittingly or unwittingly, from the committee despite a request of over a year's standing for all such materials.

It is my firm conviction that only if we can deal across agency lines, only if we are able to consider the crucial interaction between the agencies of our intelligence community, will we be able to truly safeguard our domestic rights and our international reputation, as well as enhance the effectiveness of America's intelligence operations.

First, I believe we must have some control over the budgets of the intelligence agencies to get information.

This information is not often voluntarily proffered. It is often embarrassing, and it is the sort of information that we can expect they will be reluctant to offer. So there must be the kind of control over budgets that requires these agencies to provide the information.

Information that is inconvenient, embarrassing, or relates to something that the executive branch simply does not want to give Congress is not shared willingly. Without some control over the budget of these agencies, I believe they will simply not respond. Subpenas are no substitute for the power of the purse.

Second, the power of the budget is needed in order to take action and take such action in private.

When we are dealing with secret problems, the power of disclosure is empty and possibly even an irresponsible avenue of action. Let me take one example: the problem of providing better cover to our secret agents overseas. The Select Committee wanted to find better ways to give better cover to our agents. We found that this cover was quite poor; that there is a real problem here. But the more we talk about it in public, the less cover there would be. And, since our committee only had the power of disclosure, we were caught in a very clear dilemma—how do we encourage more effective action on the part of the CIA and the other agencies of Government without helping the enemy?

I am firmly convinced that authority to authorize appropriations is crucial and this is the only way we can use our representative institutions to insure effective oversight.

Some say it is not practical, but I disagree. I, personally, have looked into the case of the FBI. It is practical, even easy, to sort out the budget of the domestic intelligence division. As for foreign intelligence, the executive branch itself is putting together a national foreign intelligence budget. That was the point of the President's new Executive order—to make the Director of Central Intelligence responsible for developing such a budget. The President recognized the importance of centralizing this authority within the executive branch. I believe it is no less important to centralize that authority within the Senate.

A simple oversight committee, with only the power to subpena, would be even worse than the system we have today. Authority and the dissemination of crucial information would be more divided and fragmented. Moreover, the agencies would no longer know to whom they were responsible. Indeed, they might be tempted to pick and choose among the committees, depending on the issue. The result, I believe, would be even less oversight than we have today.

Bear in mind that the intelligence agencies have learned the lessons of the last year and a half. They do not want ineffective oversight they have come to realize that they would be better off if Congress had a strong and responsible hand in intelligence matters.

The former director of the CIA, William Colby, who did so much to clear up abuses within that agency, made it extremely clear that the future effectiveness of America's intelligence community depends on vigorous congressional oversight. He sees that the time has come. Now the question is: Do we?

Mr. President, I am convinced that we do. I believe the compromise resolution introduced yesterday meets that test. I participated in developing that compromise, and I support it.

I wish to close with one final observation: One cannot have spent the last 15 months, as many of us have—and I see the chairman of the committee (Mr. CHURCH) on the floor—without coming away with some conclusions, perhaps not very flattering, about how human nature works when it is given this power and it is permitted to exercise it in secret.

James Madison, in Federalist Paper 51, made some conclusions about human nature that I think made up the genius of our Constitution. He said if angels were governed by angels, we would not need a government, and if men were governed by angels, we would not need much government. But the problem comes when men govern men, how you first cause the Government to govern the governed, and then in the second instance, how you cause the government to govern itself.

Madison concluded that the only way you could do that is through auxiliary controls, as he put it—outside controls that made certain that those who were operating and using Government power would not be judged alone by their own version, their own appraisals of the lawfulness and appropriateness of their action, but that, instead, their behavior and their performance would be judged by outsiders.

I am convinced that the lesson that we have learned here and the lesson of Watergate, the lesson of so much in government, brings us right back to Madison's point: We always hope for the best in human nature, and it is our prayer. That is why we go to church. We are always happy when human nature accords with the highest ends. But surely human history, surely the history of this country, has established beyond any doubt that if we are going to say, "Now, just trust us, we have a better bunch of people than those who preceded us," it is a bad bet; it will not work. We have to go back to the genius of the Founding Fathers to see that the way to make certain that government works legally and accountably is to make it accountable to outsiders, someone else must judge, not just those who are operating those agencies. That becomes especially crucial when the agency, by definition, must be secret.

I am willing to grant that the CIA has to operate in secret, that the FBI has to operate in secret. But it is a grevious concession for a democracy to make. We lose the basic accountability expected in the Constitution. I think we agree it must be done. But when we do it let us have a

system in secret of accountability to Congress. If we do not do that, I think we have said, it is over; we have had this study.

I am as convinced as I can be, based on what we have been through, that if we do not establish accountability in the Congress, we will see it happen again for sure. And next time, we may not have somebody find that piece of tape on the Watergate door.

I thank the Chair.

PRIVILEGE OF THE FLOOR

Mr. RIBICOFF. Mr. President, I ask unanimous consent that William N. Raiford of the Library of Congress and staff members Irene Margolis and Linda Jacobson be accorded the privilege of the floor during consideration and voting on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, may I add to that, I ask unanimous consent that Tom Susman of the Committee on Judiciary, and David Aaron of my staff be accorded the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE addressed the Chair.

The PRESIDING OFFICER. Unless the Senator is going to make a unanimous-consent request, the Chair was going to recognize the Senator from Idaho next. The Senator from Idaho is recognized.

Mr. CHURCH. Mr. President, I ask unanimous consent that the following members of the staff of the Select Committee To Study Governmental Operations with Respect to Intelligence Activities be authorized floor privileges for the duration of the floor debate and during any votes on Senate Resolution 400: William G. Miller, Elliot Maxwell, Rick Inderfurth, Michael Madigan, Michael Epstein, Charles Kirbow, Martha Talley, Mark Gitenstein, and Robert Kelley.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. CHURCH. I yield.

Mr. LEAHY. Mr. President, I ask unanimous consent that Paul Bruhn and Herbert Jolovitz, of my staff, be allowed floor privileges during discussions and vote on Senate Resolution 400.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. CHURCH. Yes.

Mr. TAFT. Mr. President, I ask unanimous consent that Mr. Robert Hunter of my staff have the privilege of the floor during the debate and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. PERCY. Mr. President, I ask unanimous consent that a statement by the distinguished Senator from Tennessee (Mr. BAKER) be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR BAKER

I wish to add a few brief remarks to my earlier statement in support of S. Res. 400—the Resolution which will create a permanent Select Committee on Intelligence Activities. The amendment in the nature of a substitute to S. Res. 400, which has been proposed today by my colleague, Senator Cannon, and which I was privileged to cosponsor, represents a compromise agreement which was arrived at through a lengthy bi-partisan effort. I am pleased that this version of S. Res. 400 enjoys a wide bi-partisan cosponsorship, including the distinguished Majority Leader, Senator Mansfield, and the distinguished Minority Leader, Senator Scott.

I would like to take this opportunity to put in the *Record* my congratulations to all the Senators who worked so long and so diligently to arrive at an agreed-upon resolution which will create what I feel is so vitally necessary—a single secure Senate committee to oversee our intelligence community. I applaud the bi-partisan spirit which existed throughout the sometimes delicate negotiations which resulted in the drafting of an oversight resolution which could be supported by the vast majority of the Senate. Thus, we have avoided a divisive floor battle which would not have enhanced the reputation of the Senate.

At this time, I would like to comment upon some of the provisions contained in today's S. Res. 400 amendment in the nature of a substitute. The compromise version which was introduced today and which I fully support contains all of the essential elements for a strong permanent oversight committee. It contains legislative and authorization authority; a strong disclosure provision; and access to all the information necessary to complete its tasks. It should be noted that while the Committee is a large one with seventeen members, it does have a lengthy agenda of business which must be accomplished. It is required to report back to the Senate no later than July 1, 1977 with recommendations for legislative or other actions. In particular, it is charged with studying the organization of the intelligence community, the desirability of developing charters for each intelligence agency, the desirability of the Select Committee merging into a joint committee with the House of Representatives, with recommending whether there should be public disclosure of any budget figures. This is indeed an ambitious and heavy schedule. I am confident that the new Committee will soon demonstrate that it will be able to fulfill all of these tasks both thoroughly and responsibly.

There are two additional sections of the resolution to which I would like to address additional comment. First, with respect to section 8 of the Resolution I would have preferred not to have included within that section the debate limitation contained in subsection (c). Section 8(c) limits debate to nine days on the question of whether classified information should be released to the public by the Senate over the objection of the President. As my colleagues know, the Resolution as written was the result of a compromise effort. Thus, I would have preferred to have the disclosure section provide that once the matter was referred to the Senate it would be acted upon by the Senate in accord with its normal procedure. I believe that in a matter as serious as the United States Senate releasing classified information over the objection of the President of the United States that the Senate should have the full and complete opportunity to debate such a weighty decision.

I would not have provided a specific limitation upon the debate of this serious question within the Senate and would have allowed the standard cloture rules to apply. Nevertheless, I am pleased that the section provides that if the oversight committee does not agree with the President with regard to the release of the classified information the matter must come to and be voted upon by the Senate as a whole. This is the provision which I have long urged be placed in the oversight resolution because I think it is terribly important that if there is going to be a disagreement between two branches of our government that that disagreement be decided upon by the Senate as a whole and not by a mere committee of the Senate.

Secondly, with regard to section 11 of the Resolution, I would have preferred the language to read:

It is the sense of the Senate that the head of each department and agency of the United States should keep the Select Committee fully and currently informed with respect to intelligence activities which are the responsibility or engaged in by such department or agency.

As I have stated on many occasions in the past, it was my preference to use the "fully and currently informed" language which has served us so well in the Joint Committee on Atomic Energy. "Fully and currently informed" carries with it a body of established precedent as to exactly what it means. As part of the compromise agreement, however, I am supporting section 11 as written which requires the intelligence community to keep the Select Committee "fully and currently informed with respect to intelligence activities, including any significant anticipated activities."

The present section 11, however, also contains the following language:

Provided, That this does not constitute a condition precedent to the implementation of any anticipated intelligence activity.

I would like the *Record* to reflect that I requested this language be added to section 11 to make absolutely clear that the inclusion of the words "including any significant anticipated activities" did not constitute a requiremnt that the Select Committee either give its consent or approval before any covert action or intelligence activity could be implemented by the Executive branch. Rather, the intent of section 11 as written in the present resolution is to require prior consultation between the Committee and the intelligence community but not prior consent or approval. I am adding these remarks with regard to section 11 to insure that our legislative history clarifies any doubt with respect to the meaning of the present language of section 11. I note that others during the debate have similarly described section 11 and I am confident that there will be no doubt remaining as to its exact meaning.

With these brief comments, I am pleased to once again announce my unequivocal support for the present resolution creating a single permanent oversight committee in the Senate. I am happy that today the Senate has acted, it has acted responsibly and it has fulfilled its commitment to the American people to do its share in the critical area of the conduct of our intelligence activities.

Mr. PERCY. Mr. President, I wish simply to reiterate again my commendation to Senator BAKER and to the distinguished Senator from Idaho (Mr. CHURCH), whose name was mentioned briefly yesterday during his absence, for the distinguished leadership they have provided in this area, which really has been the forerunner of the legislation before us today.

Mr. CHURCH. I thank the Senator very much.

In this Bicentennial Year, we have celebrated the durability of our system of government and quality of strength of the Constitution. Part of that enduring strength is based upon the ability to make changes when we have to of a pragmatic nature, while remaining within our basic principles of law and procedure.

The experience of secret government activities over the past 30 years argues indisputably for changes to be made in both the legislative and executive branches if we are to preserve our constitutional system of government.

Over the past 15 months, the Select Committee on Intelligence Activities has carefully examined the intelligence structure of the United States. Considerable time and effort have been devoted in order to understand what has been done by the U.S. Government in secrecy during the 30-year period since the end of World War II. It is clear to the committee that there are many necessary and proper governmental activities that must be conducted in secrecy. Some of these activities affect the security and the very existence of the Nation.

It is also clear from the committe's inquiry that intelligence activities conducted outside the framework of the Constitution and statutes can undermine the treasured values guaranteed in the Bill of Rights. Further, if the intelligence agencies act in ways inimical to declared national purposes, they damage the reputation, power, and influence of the United States abroad.

The Select Committee's investigation has documented that a number of actions committed in the name of "national security" were inconsistent with declared policy and the law.

It is clear that a primary task for the oversight committee, and the Congress as a whole, will be to frame basic statutes necessary under the Constitution within which the intelligence agencies of the United States can function efficiently under clear guidelines. Charters delineating the missions, authorities, and limitations for some of the most important intelligence agencies do not exist. For example, there is no statutory authority for the NSA's intelligence activities. Where statutes do exist, as with the CIA, they are vague and have failed to provide the necessary guidelines.

The committee's investigation has demonstrated, moreover, that the lack of legislation has had the effect of limiting public debate upon some important national issues.

The CIA's broad statutory charter, the 1947 National Security Act, makes no specific mention of covert action. The CIA's former General Counsel, Lawrence Houston, who was deeply involved in drafting the 1947 act, wrote in September 1947—

> We do not believe that there was any thought in the minds of Congress that the CIA under [the authority of the National Security Act] would take positive action for subversion and sabotage.

Yet, a few months after enactment of the 1947 legislation, the National Security Council authorized the CIA to engage in covert action programs. The provision of the Act often cited as authorizing CIA covert activities provides for e Agenc * * * "to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct."

Secret executive orders issued by the NSC to carry out covert action programs were not subject to congressional review. Indeed, until recent years, except for a few Members, Congress was not even aware of the existence of the so-called secret charter for intelligence activities. Those Members who did know had no institutional means for discussing their knowledge with their colleagues. The problem of how the Congress can effectively use secret knowledge in its legislative processes remains to be resolved. It is the Select Committee's view that a strong and effective oversight committee is an essential first step that must be taken to resolve this fundamental issue.

Since World War II, with steadily escalating consequences, many decisions of national importance have been made in secrecy, often by the executive branch alone. These decisions are frequently basesd on information obtained by clandestine means and available only to the executive branch. Until very recently, the Congress has not shared in this process. The cautions expressed by the Founding Fathers and the constitutional checks designed to assure that policymaking not become the proviince of a few men have been circumvented through the use of secrecy. John Adams expressed his concerned about the dangers of arbitrary power 200 years ago:

> Whenever we leave principles and clear positive laws we are soon lost in the wild regions of imagination and possibility where arbitrary power sits upon her brazen throne and governs with an iron scepter.

Recent Presidents have justified this secrecy on the basis of "national security," "the requirements of national defense," or "the confidentiality required by sensitive, ongoing negotiations or operations." These justifications were generally accepted at face value. The Bay of Pigs fiasco, the secret war in Laos, the secret bombing of Cambodia, the anti-Allende activities in Chile, the Watergate affair, were all instances of the use of power cloaked in secrecy which, when revealed, provoked widespread popular disapproval. This series of events has ended, for the time being at least, passive and uncritical acceptance by the Congress of Executive decisions in the areas of foreign policy, national security and intelligence activities. If Congress had met its oversight responsibilities through the years, some of these excesses might have been averted.

The worth of the work done by the Select Committee on Intelligence Activities over the past 15 months will be judged by the outcome of the resolution now under consideration. A strong and effective oversight committee of the kind set forth in the resolution now under consideration is required to carry out the necessary reforms contained in the Select Committee's final report. In order to restore legitimacy to what are agreed to be the necessary activities of the intelligence community, a strong oversight committee with a well-trained staff is required.

This is a time for a new beginning. Fifteen months of investigation have revealed enough evidence of the dangers of permitting the intelligence agencies of the United States to undertake their necessary activities without the kind of legislative oversight contemplated by the Constitution. It is quite clear that the concerns expressed over 20 years ago by Senator MANSFIELD have proven to be correct.

There have been over 200 proposals to establish an oversight committee since Senator MANSFIELD introduced his resolution over two decades ago. Surely, we do not need further evidence of the necessity for an oversight committee with the powers required to do the job. It is quite clear that the oversight structures we have designed in the past have proven inadequate.

The creation of a new permanent intelligence oversight committee is an absolutely necessary first step toward establishing an agreed-upon procedure by which problems of national importance that are necessarily secret in character can be addressed within the constitutional framework.

The jurisdiction of an effective committee must include oversight over what is known as the "national intelligence community." Because of the limitations of present committee jurisdictions, no committee presently is able to exercise oversight over national intelligence. At the present time, the Committees on Armed Services, Foreign Relations, Judiciary, have been faced with the problem of overseeing fragments of the intelligence community. No committee has had the scope to look at national intelligence as a whole.

The resolution now before the Senate provides that the oversight committee would have sole jurisdiction over the CIA, and concurrent jurisdiction over the NSA, the DIA, the "national intelligence" components in the Department of Defense budget, and the intelligence portions of the FBI. The Select Committee, over the past 15 months, has found that these agencies have worked so closely together, that unless there is the clear ability to look at all of them, oversight cannot be effectively carried out. The pending resolution would not exclude committees with existing jurisdictions over particular elements of the intelligence community that fall within their larger oversight duties. Obviously, it is necessary for the Armed Services Committee to know the requirements and, to some extent, the activities of the NSA and the DIA to be sure that the Department of Defense's activities are of a piece. On the other hand, the bulk of activities of the CIA, a civilian agency, are not concerned with military matters and require a different oversight focus than is now the case. For a variety of reasons, the counterintelligence activities of the FBI have not been the subject of adequate oversight in the past. The new oversight committee would create a new jurisdiction, which would bring together all these disparate elements of

the national intelligence community which are now scattered among several Senate committees and some functions which are not covered by any committee.

National intelligence includes the collection, analysis, production, and dissemination and use of political, military, and economic information affecting the relations of the U.S. with foreign governments, and other activity which is in support of or supported by a collection, analysis, production, dissemination and use of such information. National intelligence also includes, but is not limited to clandestine activities such as covert action and some activities that take place within the United States such as counterintelligence. In general, these are the activities that would be supervised.

The main legislative tool required to effectively carry out oversight is annual authorization authority for the CIA, and the national intelligence portions of the NSA, DIA, the counterintelligence portion of the FBI, and some other national intelligence groups found in various departments and agencies. The power of the purse is the most effective means that the Legislature can have to assure that the will of Congress is observed. There has never been an annual authorization of the intelligence community budget. The proposed oversight committee, for the first time, under appropriate security safeguards, would be able to consider all budgetary requests of the national intelligence community on an annual basis.

The second legislative power required by an oversight committee to function effectively, is the right to acquire necessary information. It is absolutely vital that the oversight committee be kept "fully and currently informed" on all matters pertaining to its jurisdiction. The executive branch should also be obligated to answer any requests made by the Committee for information within its jurisdiction. In my view, the right to information provisions of the resolution which are based upon the existing language of the Atomic Energy Act, section 202(d), have served Congress well for more than a quarter century. The resolution has added a provision that, consistent with the intent of section 202(d) of the Atomic Energy Act, the oversight committee should also have the power to require information concerning activities of the intelligence community that the committee believes it should be informed of prior to the initiation of any such activity.

The effect of such a provision would be to require prior legislative authorization of intelligence activities in the normal way. This authority lies at the heart of vigilant legislative oversight. It is the power of the purse operating in full conformity with the Constitution.

Without full knowledge obtained in sufficient time, meaningful oversight cannot be exercised. It is clear from present concerns and recent history that the country would have been well-served had a committee of the Congress known in advance of certain actions, so that the advice of the Congress might have been given, and foolish, costly, and harmful courses of action might have been averted.

Another important provision in the pending resolution is the procedure which should be followed in the event that the committee wishes to disclose information obtained from the executive branch which the President wishes to keep concealed. The Select Committee has been involved in a number of instances over the past year in which there has been a dispute between the committee and the executive branch.

Almost all of these points of disagreements were resolved in a manner agreeable to both sides. However, there were a few instances in which agreement coula not be reached. One such example was the question of the release of the assassination report. But in working toward the creation of a constitutional procedure for dealing with issues of a secret character, the larger question of the proper role secrecy should play in our democratic society must be carefully addressed. The constitutional system of the United States is best suited to make national decisions through open discussion, debate and the airing of different points of view. Those who advocate that a particular secret must be kept should have the burden of proof placed upon them. They must show why a secret should be withheld from public scrutiny. Inevitably, there will be differences between the Executive and the Legislature as to whether the national interest is served by maintaining secrecy in particular cases or whether the usual constitutional process of open debate and public scrutiny should prevail. It is my view that important questions of this kind should be brought to the full Senate for decision.

The resolution now before the Senate prescribes the following procedure: If the oversight committee decided that it would be in the national interest to disclose some information received from the executive branch, it would be required to inform the executive branch of its intention. It would then be required to enter into a full and considered consultation concernig the problems raised by disclosure. If, after such full and considered consultation, the oversight committee decided to disclose any information requested to be kept confidential by the President, the committee would be required to notify the President of that decision. The committee could then, after 5 days, disclose the information unless the President, in writing, informed the Senate through the committee that he opposed such disclosure and gave his views why he opposed the disclosure of such information. The oversight committee, after receiving the President's objections, and if it decided that the President's reasons did not outweigh the reasons for disclosure, may refer the question to the full Senate in closed session for a decision.

In my view, once the Senate accepts the kind of process set forth in this resotion, it would respect the injunction of secrecy. We must recognize that at this time there is no agreement as to what a valid national security secret is, and that the Senate does not now have the procedural means to make decisions concerning matters classified secret by the executive branch.

One further step is set forth in this resolution—sanctions for improper disclosure. In my view, if any member of the Senate or staff disclosed sensitive information of the committee outside of the committee, except in closed session of the Senate, such disclosure should be referred to the Committee on Standards and Conduct to investigate and recommend appropriate action including, but not limited to, censure or removal from office.

The Senate has never addressed this issue squarely. It is my firm belief that it should do so now. Once the Senate comes to agreement as to how secret material should be handled, it should also impose upon itself rules to assure that improper disclosure, as defined by the Senate, will be properly dealt with.

We have learned enough from the past 30 years of secret Government activity to realize that our legislative structures and procedures are inadequate for the task. We cannot shy away from the necessity to develop effective procedures to make legislative decisions concerning necessarily secret activities of the United States, but such decisions must be done in ways consistent with the Constitution.

The history of the past 30 years and the revelations of the past 2 years are proof that we have much work to do. Let us equip ourselves in the Senate to do our part of the job in the most effective way. We need an oversight committee to oversee the activities of the entire intelligence community with the power, knowledge, and staff required.

The need to bring secret Government activities under constitutional control is clear, the means to do so are contained in the resolution now before the Senate. We have had 30 years of experience and 15 months of intensive inquiry. What further proof do we need?

Finally, I want to express my gratitude to the majority leader, MIKE MANSFIELD, who has done so much to bring the problems created by secret activities of our Government to the attention of the Senate and the Nation. His leadership in this and other vital national issues is one of the brightest chapters in the history of the Senate.

I also want to thank the chairman of the Government Operations Committee, ABRAHAM RIBICOFF, his able colleagues Senators PERCY, JAVITS, WEICKER, and all the members of the Government Operations Committee, who, through their hearings and rigorous legislative efforts have done so much to advance the proposal under consideration today.

The compromise resolution now before us is also the result of the dedicated and conscientious work done by the Rules Committee, under the leadership of its chairman, Senator CANNON; the majority whip, Senator BYRD, and Senators HATFIELD, PELL, CLARK and WILLIAMS. In working out this compromise, I am grate-

ful for the efforts made by Senator ALAN CRANSTON.

I particularly want to thank the members of the Select Committee on Intelligence Activities, of which I am honored to be chairman, for their devoted and able efforts over the past 15 months to come to grips with a most serious national problem—of how to bring the intelligence agencies of the United States under constitutional government. The recommendations of the Select Committee, contained in its final report, are in essence an agenda for action by the oversight committee now under consideration. I especially want to thank Senators MONDALE and HUDDLESTON for the fine work they have done in heading the Select Committee's two subcommittees on Foreign and Domestic Intelligence. The work of Senators PHIL HART, GARY HART, and ROBERT MORGAN, and the able vice chairman, Senator TOWER, Senator BAKER, Senator GOLDWATER, Senators MATHIAS and SCHWEIKER, has shaped the nature of the committee's important findings and recommendations.

Finally, I want to express my thanks for the work done by our staff, whose ability, loyalty and devotion throughout 15 difficult months has been a worthy service to the Senate and the Nation.

The PRESIDING OFFICER (Mr. HATFIELD). The Senator from New York.

Mr. JAVITS. Mr. President, I rise in support of this compromise measure.

First, I think it is rather a triumph of the wisdom and willingness to see the other fellow's point of view of the Members of the Senate, particularly the principal negotiators in respect to this particular compromise. I refer specifically to Senator CANNON, who felt very, very deeply about the substitute which the Rules Committee recommended, but in that spirit of knowing that we had to do something and do something effectively in this particular field yielding many of the things he thought he would never yield in order to gain the greater objective, which is to bring about a strong congressional capability to deal with the intelligence community. It is so easy to run down the Senate and other legislative bodies. It is refreshing when we show we can really fashion a strong compromise out of so many different views in order to accomplish a great public result.

Mr. President, as we begin this important debate on Senate Resolution 400, I believe that there is one fundamental issue before us. It is whether the business of intelligence shall continue to be the exclusive preserve of the executive branch, or whether Congress shall finally also assume its constitutional responsibilities in this field.

For the past 6 weeks since Senate Resolution 400 was reported by the Committee on Government Operations, it has been debated and discussed formally and informally in three other committees and in public media throughout the Nation. All who have examined this issue agree that any oversight proposal—if it is to be worth anything—must contribute significantly and constructively to the task of assuring that the operations of our intelligence agencies do not exceed laws and that they do not violate the rights of our citizens.

The de facto immunity from accountability granted for years to the CIA and the FBI must now cease and never again recur. This will be the case only if Congress recognizes that it has failed to take seriously its responsibility to oversee and check these operations. The Senate now has the opportunity to write strong and meaningful oversight legislation. And it can do so without impairing the capacity of the President to fulfill his own constitutional responsibilities in the areas of foreign policy and defense.

Mr. President, the late Chief Justice Earl Warren once said that if each of the three branches of the Federal Government pursued its constitutional powers to the end of the trail, then our Government simply could not work.

In recent years, we have been engaged in several major separation of powers questions with the Executive. War Powers, impoundment, budget control and now intelligence oversight. In resolving all of these challenges to our constitutional system, I believe both branches have understood and heeded the implicit constitutional mandate for cooperation and compromise among the three branches.

In developing this legislation, the Committee on Government Operations and Committee on Rules and Administration have made every effort to make their decision on the issue of oversight legislation with a keen sensitivity to the delicate balance which must resolve every serious separation of powers issue. I believe that the Committees on Foreign Relations, the Armed Services, and the Judiciary—each of whom has major substantive responsibilities in this field—aproached the issue with the same sensitivity.

The substitute submitted by Senator CANNON, which I strongly endorse, is the product of a long process of consultation and compromise involving many Senators who have supported the establishment of the strongest possible oversight committee.

It represents a genuine effort to reach an accommodation on very difficult issues. Its adoption by the Senate would constitute a clear and impressive signal to the American people that the United States will have a strong, effective and viable intelligence-gathering apparatus together with a congressional structure to assure its effectiveness and also its lawfulness.

It is designed to offer the Senate a middle-ground choice between the Government Operations resolution and a substitute version introduced by Senator CANNON and reported by the Committee on Rules and Administration.

In my judgment, adoption of the unfinished Cannon substitute would fall far short of doing what is even minimally necessary to resolve this issue.

During the past 35 years there have been over 200 proposals introduced in both Houses which would have established a congressional oversight committee in the field of intelligence. Our distinguished majority leader has long been a principal champion of this idea. While he has long sought to bring this idea into reality, the need for an effective oversight mechanism has become more and more evident and urgent.

With the testimony of the Director of the CIA that that agency had spied on American journalists and political dissidents, placed informants within domestic political groups, opened the mail of U.S. citizens, and assembled secret files on more than 10,000 American citizens, this issue reached a new height of importance.

The acknowledgment and apology by the Director of the Federal Bureau of Investigation last Saturday that his agency had committed thousands of illegal burglaries in its COINTELPRO program constitutes an unprecedented challenge to the Congress to reverse decades of neglect and irresponsibility respecting the operation of the FBI.

Armed with the principal legislative tool required to carry out effective oversight—annual authorization authority—the committee can meet the responsibility which has been so long neglected. It can do so without jeopardizing the authority of other standing committees with existing responsibilities in this field.

Mr. President, a great deal of effort has been made over the weekend and throughout yesterday to bring together a coalition of Senators who supported this legislation with those members of the Rules Committee who had reservations about provisions in our version. Both sides have made significant concessions. I strongly applaud these efforts and compliment Senators RIBICOFF and PERCY of our committee, Senators CANNON and ROBERT BYRD of the Rules Committee, and Senators MONDALE, CHURCH, BAKER, and CRANSTON who also contributed their energy and talents to working out differences on Senate Resolution 400.

Although there are some provisions of the new substitute resolution that I am not altogether happy with—particularly in section 9 dealing with the procedure incident to the disclosure of sensitive information and sanctions against Members, officers, and employees of the Senate—it nevertheless does contain the essential elements of strong and meaningful oversight legislation. It would give the new committee budget authority, including exclusive jurisdiction over the CIA, reasonable legislative authority, and access to information from the agencies themselves. Also, the committee would be established on a permanent basis and its members would be appointed on a rotating basis.

I urge the Senate to meet its constitutional responsibility for supervision of the intelligence community. Only after we meet that test by establishing a strong committee can the agencies themselves recover the confidence and trust of the American people. In the long run, such a committee can and will make an essential contribution of its own to the strengthening of our national security.

Mr. President, as important as is the creation of this committee, we cannot accept the fact that this legislation is the entire answer to the long chain of abuses which have been cataloged and documented during the past several years.

These abuses constituted clear and present dangers to the freedom of the American people.

Yet the problem of limiting those dangers is a most difficult and complex one, for it is seldom easy to separate legitimate from illegitimate investigations or to enforce constitutional standards. Nevertheless, it is critically important for the administration and the Congress to formulate the clearest possible guidelines governing "national security" investigations and related operations. Individual charters must be developed for the agencies within the intelligence community.

While it is necessary for our Government to undertake some of its activities in secret, it is incumbent upon the Congress to participate in the development of policies which will allow the constitutional processes to be preserved, even though certain underlying operations must remain confidential. The enactment of Senate Resolution 400 is only the first step in assuring a new degree of accountability for the necessary intelligence activities in the United States.

Mr. President, I participated in the hearings which helped to fashion the resolution which was reported out of the Committee on Government Operations, and I feel I can assure our colleagues that we have brought together the essentials for congressional oversight of the intelligence community. To paraphrase Benjamin Franklin's aphorism, we will have the ability at long last to see that the gathering of intelligence by the CIA, the FBI, and other agencies is not made a cover or an excuse for unlawfulness, to assure that power does not intoxicate the men who use it and whom we empower to use it, and that it is not improvident in terms of the cost, or that it is ineffective.

All of these things I think now come within our control, and this is all for the good after some 35 years without oversight. It is also refreshing that a new atmosphere of openness and disclosure concerning what has gone on has developed.

Mr. President, the point that I wish to emphasize again, because I really am very deeply concerned with it myself, is our responsibility in the Senate. When this is passed, we will be entrusted, on a continuing basis in a unique way, which has hardly happened before, except in very sporadic instances such as the Manhattan project and a few others with highly sensitive information of high importance to the security of the United States and, indeed, to the security of the world.

Mr. President, we must ask ourselves the question: Will we be trustworthy and will we be honorable trustees of this tremendous responsibility which we are asking for.

We have tried to fashion a system, a methodology, by which there shall be accountability by individual Members. We have tried to fashion that through the use of our constitutional power, which is awesome, to discipline or remove a Member, a power which we have, which is not subject to the speech and debate clause. The job which has been done in our committee and in the Committee on Rules and Administration has been to balance effectively these two congressional responsibilities, on the one hand, to respect the integrity of intelligence on the part of our Members in the House of Representatives and Senate and, on the other hand, to give freedom to the individual Member to express himself, without fear, as to how he feels about great public questions.

It is yet to be seen how this is going to work out. We could easily retrograde and abuse the powers, which we are now seeking to avert, and contribute to a climate of dictatorship in this country if we abuse what we are here acquiring in the way of privileges and power.

Mr. President, I believe, as I have concerned myself deeply with this, that we have fashioned an effective means for control and discipline in this resolution, and we fashioned it without being invidious to any Member, without undertaking proceedings of a mandated character which could be embarrassing and difficult for Members, but at the same time doing our utmost to keep honest and truthful to what I consider to be a sacred oath when we pass this resolution, that we are going to respect what we learn and act with the appropriate wisdom and discretion, and we are going to make it our duty to see that other Members respect it as well.

Mr. President, the resolution has been very thoroughly analyzed. I have given all credit to those who have been concerned in fashioning it, but this is going to be the acid test. And I hope very much that we will pass the legislation as is, so as to preserve the machinery which we think is very specially and effectively adapted to this purpose, and that we are true to our trust. If we do that, I think we will not only benefit our people in the way of effective intelligence oversight, but also in preserving fundamental freedoms in this country.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. CANNON. First, I thank the Senator for his kind remarks on behalf of the committee and myself, and second, I think he has put the finger on a very important point. This was one of the problems that we found with the initial Senate Resolution 400 when it came to the Committee on Rules and Administration. That is the necessity for absolute secrecy in relation to some of the activities that are carried out.

We do have a responsibility among ourselves to be sure that information that should be kept classified is kept classified, so, in the Committee on Rules and Administration, we wrote, as the Senator knows, a provision that, as the Senator has suggested to the Members, if they abide by those guidelines that are set out we can preserve the secrecy where it need be preserved, and we will have the authority to declassify where the Senate feels that it is a matter that should be declassified and should be made public; but we have to keep in mind that we do have to look after and protect the security of this country.

I thank the Senator for making that point.

Mr. JAVITS. Mr. President, I am very grateful to our colleague.

I wish to point out another accomplishment of this resolution which ought to be especially dear to the Committee on Rules and Administration. It establishes the absolute paramountcy of the Senate, that every committee is an agent of the Senate, and that every individual Senator is a Member of the Senate.

I thank our colleague very much, and I yield the floor.

Mr. ROTH. Mr. President, in the kind of world we live in, good intelligence information is essential to sound foreign, defense, and arms control policies. I believe that Senate Resolution 400 will help strengthen the ability of our intelligence agencies to perform their very important tasks.

The investigations have been made and abuses have been found. It is our purpose now to help these agencies get on with their jobs and insure that further abuses do not reoccur. I believe that a strong oversight committee with legislative authority is needed to change the atmosphere, dispel the doubts, give the public confidence in Congress' oversight job, and thus help the CIA and other intelligence agencies get on with their work.

I am pleased that Senate Resolution 400 incorporates the proposals which Senator HUDDLESTON and I offered to protect intelligence secrets and also my amendment requiring the new committee to look into a number of neglected areas vital to effective intelligence, including the morale of intelligence personnel, the analytical quality of our intelligence, and duplication within the intelligence community.

I hope this legislation will be viewed in retrospect as having ushered in a new era of responsibility in the intelligence field—responsibility in the intelligence agencies and responsibility in the Congress.

Mr. EASTLAND. Mr. President, the Senate has before it today measures which would greatly alter its institutional structures for the oversight of the intelligence gathering activities of the executive branch.

The basic object of these proposals is to incorporate into the jurisdiction of one new Senate committee all this intelligence activity, regardless of its nature, including that conducted for the purpose of foreign intelligence, military security, and for domestic law enforcement.

This Senator favors strong and effective oversight of the intelligence activities of the Government. The Judiciary Committee has historically exercised oversight of the Department of Justice and its bureaus including the Federal Bureau of Investigation. The full committee and at least three of its subcommittees now exercise jurisdiction over the Bureau and its functions.

A number of the recent "revelations" of the FBI's activities, it should be noted, had come to the attention of the committe and its subcommittees. Prior to the creation of the Senate Select Committee on Intelligence, the Judiciary Committee learned of the FBI's cointelpro program. At that time the Department of Justice

commenced the drafting of guidelines which would prohibit the abuses of this program. Under the direction of Attorney General Levi such guidelines have been formulated and are being implemented.

A number of other activities which have been revealed in the past year have been brought out in an emotion packed atmosphere. Some of these issued needed a public airing and debate. Most of them, however, have been the subject of constructive reform and have been covered by Mr. Levi's guidelines.

We are at the point today where the airing of these matters has already occurred and strong measures have been implemented by the Department of Justice to correct past abuses. The question is now how do we best continue Senate oversight of the intelligence activities of the FBI.

Mr. President, I strongly suggest that the best approach is not by including the activities of the FBI with that of the CIA and the Defense Department.

In March, the Judiciary Committee held hearings on the question of the creation of a new Senate Intelligence Committee. Throughout these hearings one theme ran strongly and consistently. That was that the FBI, unlike other intelligence gathering bodies is a law enforcement agency. The FBI's intelligence activity is basically in furtherance of the prosecution of Federal crimes.

Those who have studied the FBI's organization and operations are aware that that its intelligence activities are closely related to its law enforcement function. Because this activity is so integrally related to the criminal investigatory function of the FBI and the Department of Justice, it is my firmest belief that oversight of the FBI should be continued to be dealt with as a unit.

Far to long there was a public perception, which was perhaps even shared by some within the FBI, that the FBI and its intelligence activity was in some way separate from the Department of Justice. But thanks to the direction and management of Attorney General Levi, with the outstanding cooperation of Director Clarence Kelley, this is no longer the case in appearance or in fact.

The splitting of the Jurisdiction of the Bureau's nonintelligence activities and its intelligence operations between two Senate committees, would, however, give renewed credence to this outmoded notion.

As Attorney General Levi, testifying before the Judiciary Committee, well put it:

> The Bureau's discipline of perceiving its intelligence functions as closely connected to the federal criminal law is important in that it is a reminder of the need—so clearly seen in ordinary criminal cases because of the ultimate scrunity of the courts—carefully to protect individual rights. Congressional oversight arrangements that would split off the intelligence functions from the more ordinary law enforcement functions of the Bureau would tend to diminish the force of this perception.

The Attorney General and Director Kelley, testifying before the Senate Judiciary and Government Operations Committee, both emphasized the need for vigorous oversight of the Department of Justice and the FBI. Both, however, urged that such function could be best served by retaining oversight in a single committee.

Mr. Levi noted that the domestic security investigations of the FBI should be tied closely with the enforcement of criminal law. The guidelines which he issued seek to achieve this objective by authorizing domestic security investigations only into conduct which will involve violence and the violation of Federal law.

In the area of foreign intelligence, the FBI's role has been a derivative one. With the approval of the Attorney General, the FBI at the request of other intelligence agencies does collect useful information regarding foreign powers. Because this activity is at the request of other agencies, it would, of course, be within the jurisdiction of any present or new committee established with oversight of the requesting agency.

Unlike agencies such as the CIA, whose mission is the collection and evaluation of intelligence, the FBI is first and foremost a law-enforcement agency. Its primary duty is the detection and investigation of violation of Federal criminal laws. The gathering of intelligence is one of the basic tools it employs in its law-enforcement function. The detection of many crimes often requires knowledge of their background. This is especially true in organized crime and in domestic security investigation. This connection between investigation and the criminal statute cannot be ignored.

Those of us who have studied the Department of Justice realize that the FBI is utilized by the operating divisiosn of the Department as their sole agent in gathering evidence for such diverse crimes as bank robbery and civil rights. The intelligence activities of the FBI are in a true sense interrelated with the activities of the other parts of the Department.

For effective oversight it is required that a full understanding be had of the entire Department of Justice.

It is my belief, and one which is shared by a number of my colleagues, that oversight which is directed solely at the intelligence activities of the FBI, as separate from its other functions and those of the Department as an entity, would create the very real likelihood of conflicting and confusing congressional guidance.

I am a firm believer in Senate oversight of the FBI. This is a matter which neither I nor the Judiciary Committee takes lightly. Serious deliberation was given this matter by the fulll committee following its hearings on Senate Resolution 400.

After those deliberations the committee voted to amend Senate Resoultion 400 to delete from it the grant of jurisdiction to the proposed Committee on Intelligence Activities over the intelligence activities of the Department of Justice, including the FBI. The effect of these amendments would retain in the Judiciary Committee such jurisdiction.

The report of the Rules Committee, to which the resolution was then referred contained the following language:

Committee on the Judiciary.—For similar reansons the Committee on Rules and Administration believes that legislative authority over the functions of the Justice Department, including those of the Federal Bureau of Investigation, should remain within the exclusive jurisdiction of the Committee on the Judiciary.

The Committee believes that the intelligence activities of the Department of Justice are so intertwined with its law enforcement function that a splitting of congressional jurisdiction over these activities between the Committee on the Judiciary and the proposed Standing Committee on Intelligence Activities would create confusing and conflicting congressional guidance to the agency.

Unlike other intelligence gathering agencies, the FBI is primarily a law enforcement agency. The intelligence activity of the FBI is a means by which it detects and investigates violations of federal criminal laws. Because this activity is so integrally related to the criminal investigatory function of the FBI and the Department of Justice, it is the belief of the Committee that all legislative authority should be continued to be dealt with as a unit within the jurisdiction of the Committee on the Judiciary.

Mr. President, Senate Resolution 400 as reported by Chairman CANNON from the Rules Committee would in effect continue the work of the present select committee. Although I believe that task, of the present select committee, has run its course, I am not unalterably opposed to the proposal in this amended version of Senate Resolution 400. The temporary committee which is envisioned would be granted general oversight of all intelligence activity. It would have an opportunity to review this subject area with some detachment and without the highly charged atmosphere which has surrounded this matter for the past year and a half.

I wish to state again, however, Mr. President, that I strongly oppose the creation of a permanent Senate Intelligence Committee with both oversight and legislative jurisdiction, concurrent or exclusive, over the intelligence activities of the FBI.

Such a move would give strength to the concept that the intelligence activity of the FBI is separate from the law-enforcement function of the Department of Justice where it necessarily and properly rests.

Such a move could easily result in long-range confusion and conflict of congressional directives to the FBI.

A sharing of access to intelligence material also provides a much greater possibility of the unauthorized disclosure of matter which the Department of Justice understandably needs to safeguard in order to protect its sources and techniques in investigating criminal violations.

For these reasons, Mr. President, I urge my colleagues to reject any measures which grant any proposed standing committee the jurisdiction over the intelligence activities of the Department of Justice.

Mr. BUCKLEY. Mr. President, for the past several months, the Congress through the Select House and Senate Committees on Intelligence Operations have been reviewing the entire scope of domestic and foreign American intelligence operations. One of the conse-

quences of this effort has been to recommend the establishment of a congressional oversight committee to monitor the operation of existing U.S. intelligence agencies, both domestic and foreign.

While I believe congressional review of all activities of the Federal Government including domestic and foreign intelligence is an essential obligation of the Congress, I believe that the proposed oversight committee as recommended by the Senate Select Committee on Intelligence Operations will gravely weaken our intelligence services rather than strengthen them. I believe this is so for several reasons.

First, are the inherent dangers in the centralization of an oversight function. We know from experience dating back to Pearl Harbor, where a failure of our intelligence services formed the basis upon which we initiated a major reform of the intelligence structure of the United States under the National Security Act of 1947 what the consequences of a failure of intelligence means. The centralization of intelligence, whether of collection, analysis, or congressional review, is almost certain to exacerbate some of the most dangerous failings of any intelligence agency. The propensity of intelligence services from time to time to overestimate or underestimate the intentions of an adversary or in some other way to analyze objective intelligence information through the filter of parochial biases and current political fashions will be exaggerated by centralizing the oversight function which is now diffused through several congressional committees.

Second, the removal of primary oversight responsibility from the traditional intelligence committees, especially those in the Armed Services and Appropriations Committees, will inevitably weaken our ability to collect sensitive foreign intelligence, because of the fact that a much larger group of individuals may have access to some of the most sensitive intelligence information relating to intelligence sources and methods. Willingness of a potential intelligence operative to risk his life when facing the KGB is serious enough; to add the higher probability of indiscretion or leaks as a consequence of intelligence information being placed in the hands of a much larger group of congressional Members and staff can only add to the already severe burdens the prolonged congressional intelligence investigations have imposed upon our national security.

The intelligence services of the United States are an essential ingredient in our ability to guarantee the security of the citizens of the United States, both as against domestic and foreign adversaries. Because of the extremely sensitive circumstances within which intelligence services must operate, the institutional arrangements made for the operation and review of intelligence service activities must be much more carefully drawn than those which have emerged from the Senate Select Committee on Intelligence Operations of the Cannon substitute. The procedures and character of the proposed Congressional Oversight Committee on Intelligence are most likely to hamper the collection of domestic and foreign intelligence information essential to the future security of the United States. There are other ways we can assure proper oversight within the current committee structure that do not invite the dangers of the current proposal.

I, therefore, strongly urge that the present proposal be rejected.

Mr. CRANSTON. Mr. President, I rise to support this resolution. I support the establishment of a new select committee of the Senate for the purpose of overseeing the intelligence activities and programs of our Government and submitting to the Senate authorized budgets and appropriate legislation relating to all the intelligence agencies.

In establishing this new committee, the Senate is thoroughly consistent with the Constitution's system of checks and balances under the separation of powers doctrine. This pattern of checks and balances is reflected in the constitutional provisions with respect to foreign affairs and national defense. Aside from specific delegations of power to Congress and the President in articles I and II, the Constitution states in the last paragraph of article I, section 8, that Congress shall have the power "to make all laws necessary and proper for carrying into execution" not only its own powers but also "all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

Moreover, in both foreign affairs and national defense, while the President makes executive decisions, it is Congress with its exclusive power over the purse that is charged with authority to determine whether, or to what extent, Government activities in these areas shall be funded.

So, Mr. President, there is a solid constitutional base for what we are undertaking. As one who has long sought more vigilant congressional oversight over the CIA and other intelligence agencies, I am glad to cosponsor the substitute resolution establishing a strong intelligence oversight committee.

Before reviewing the key provisions of the legislation before us, I wish to express my appreciation for the work of so many of my Senate colleagues for bringing us this far. This country owes a permanent debt to the members of the Senate Select Committee to Study Governmental Operation With Respect to Intelligence Activities for the largely private labor—labor, Mr. President—they performed in exposing dangers to our system. These Senators were: CHURCH, chairman; PHILIP HART, MONDALE, HUDDLESTON, MORGAN, GARY HART, TOWER, vice chairman; BAKER, GOLDWATER, MATHIAS, and SCHWEIKER. Once the Church committee had reported its recommendations, the task of reform fell to the members of the Government Operations and Rules Committees, and both committees held hearings and reported recommendations. Prominent roles were played by Senators RIBICOFF, PERCY, and GLENN on Government Operations, and by Senators CANNON, BYRD, HATFIELD, and CLARK on Rules—among others. And, in the end, Mr. President, it remained for the fine art of compromise to be practiced by several Senators in order for the logjam to be broken and the Senate to fulfill its charge in this matter. Statesmanlike service was rendered by Senators MANSFIELD, BYRD, RIBICOFF, and CANNON—to list a few. We have come a long way, and we are proving that we can act as a team in the public interest.

There are several major provisions of this resolution which I particularly support.

First of all, as to the nature of the committee, the intelligence committee would have the power and authority of a standing committee, including subpena authority and all administrative and personnel powers necessary to carry out its responsibilities. Of course, it will be up to the members of the committee to exercise the prerogatives this resolution grants. There will be 15 Senators on the Intelligence Committee, with eight chosen from the majority party and seven chosen from the minority party. It is my hope that the leadership of both parties will favor the less senior Members of the Senate in choosing who will serve, on a rotating basis, on the committee. Since no Senator may serve longer than 9 consecutive years, and because this is an "add-on" committee with no Senator having to give up membership on another committee in order to serve, it will be possible to regularly invigorate the intelligence oversight body with new blood. This should insure the vigilance the Senate has failed to exercise in the past.

Second, the new committee's jurisdiction will extend throughout the national intelligence community. It will have legislative and budgetary authority over the Government's intelligence activities including the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and the Federal Bureau of Investigation. Most importantly, the resolution anticipates that there will be an annual authorization of funds for the different parts of the intelligence community. This will help the Senate to better perform its fiscal and oversight responsibilities, and make the intelligence agencies accountable in ways they have not been heretofore. A more coherent approach in the legislative branch should also facilitate better fiscal and organizational planning in the executive branch.

An important compromise in the resolution, that may stimulate other committees to examine the intelligence activities of a department or agency in relation to other functions, is the provision for sequential referral. Any intelligence legislation considered by the new committee that affects the activities of such departments as Defense, State, or Justice, will, upon request, be referred to the committee responsible for general oversight of these departments.

There is one important exception to this provision for sequential referral. All legislation, including authorization matters, involving the CIA alone will be referred to one committee, the new Intelligence Committee. There is no sound

argument for placing jurisdiction over the only independent, civilian-run foreign intelligency agency—the CIA—in the Armed Services Committees of Congress. At long last this practice will end in the Senate.

There are other important jurisdictional provisions in the substitute resolution. Any other committee of the Senate has the right to continue to obtain direct access to the product of intelligence it may need in order to carry out its legislative and oversight responsibilities. Further, there is specific provision for the right of any other committee to study and review the activities of the intelligence agencies when they directly affect matters otherwise within the committee's jurisdiction.

Third, in listing major sections of the resolution that I support, I draw attention to those dealing with access to, and treatment of, sensitive information. It is stated to be the sense of the Senate that the intelligence agencies should keep the Intelligence Committee "fully and currently informed with respect to intelligence activities." The importance of this proviso cannot be overestimated, Mr. President. The new committee is to have access to any information within the possession of the agencies relating to any matter within the committee's jurisdiction.

Further, the new committee is to be fully and currently informed with respect to "any significant anticipated activities." This, of course, refers to covert operations. While this does not constitute a condition precedent to "the implementation of any such anticipated intelligence activity," the Intelligence Committee would be informed about covert operations and could consider whether or not to bring these to the attention of the Senate in closed session.

When seen in combination with the 1974 Hughes-Ryan amendment to the Foreign Assistance Act—which provided that no funds might be expended by the CIA for operations not intended solely for obtaining necessary intelligence, in the absence of a Presidential finding that the operation is important to the national security of the United States, and a timely report to six committees of Congress—this access to information by the Intelligence Committee should provide a meaningful check on clandestine operations abroad without congressional knowledge, advice, or consent.

And it will still be possible for the Senate and Congress as a whole to bar funds for covert operations in a particular part of the world—as we did in Angola under the Tunney amendment last December.

Finally, on this point, I draw attention to the final section of the substitute resolution:

> Nothing in this resolution shall be construed as constituting acquiescence by the Senate in any practice, or in the conduct of any activity, not otherwise authorized by law.

This is to prevent the CIA or other intelligence agencies from citing Senate Resolution 400 as authority to conduct covert operations.

In regard to the treatment of sensitive information, the new committee would not be allowed to disclose on its own any classified information obtained from the executive branch if the President objected to disclosure. But the committee could take the matter to the Senate, which could approve or disapprove disclosure. The final decision would rest with this body. Any person engaging in unauthorized disclosure would be liable to sanctions imposed by the Senate after an investigation by the Select Committee on Standards and Conduct.

This leads me to some elements in the substitute about which I wish to express some reservations, Mr. President.

Senate Resolution 400 would establish a rather elaborate procedure to permit the President to review and object to every Intelligence Committee decision to disclose classified information obtained from the executive branch. This would permit an unprecedented involvement by another branch of Government in the operations of a congressional committee. There would be established a formal procedure for Presidential review of committee action, thereby injecting the President into the operations of the committee.

There is a separate section in the resolution authorizing the Intelligence Committee to permit, under rules established by the committee, a personal representative of the President to attend closed meetings of the committee. This provision is totally unnecessary, Mr. President. Any committee can invite such a representative at any time, in its discretion. By formalizing the process, however, I fear that we are establishing a bad precedent that reflects adversely on the independence of the Senate. Members of Congress are not invited to sit on the National Security Council, or with the U.S. Intelligence Board—for example.

I note the wording of the Government Operations Committee report on Senate Resolution 400 in respect to this matter, and I urge other Senators to heed the interpretation contained therein. The provision for permitting a Presidential representative to attend Intelligence Committee meetings "does not require the new committee to invite a representative of the executive branch to attend closed meetings or establish a presumption that the committee will do so. It merely makes explicit the power that any committee has to invite a Presidential representative to attend committee deliberations if the committee finds such representation helpful in conducting its duties."

As a member of the Budget Committee, I urged, in the work of the compromising negotiations which led to introduction of the pending bill, that the new Intelligence Committee be required to submit—on or before March 15 of each year—the views and estimates described in section 301(c) of the Budget Act regarding matters within its jurisdiction. This requirement must be met by all the standing committees. Observance of it by the Intelligence Committee will push along the goal of making the intelligence agencies fiscally accountable, and I am glad that an appropriate provision is included in the bill.

I also note that the new committee is to study the question of whether or not it is in the public interest to disclo[illegible]ny aspect of intelligence budgets. [illegible]ad hoped that this resolution would require public disclosure of the annual lump sum budget figure for each of the intelligence agencies. When testifying before the Senate Government Operations Committee on Senate Resolution 400, I proposed an amendment that would have required than the annual overall budget figure for each agency be made public. I remind Senators that article I, section 9, clause 7 of the Constitution states:

> No money shall be drawn from the Treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

It is now my understanding that the issue of making public the overall figures for the budget of the intelligence agencies will be brought to the floor by the Church committee before its expiration. I hope the Senate will decide that issue affirmatively, and thus set a precedent for the public release of annual figures for each agency by the new committee.

In conclusion, Mr. President, let us remind ourselves of the mountain of revelations required to bring us to this moment of reform. The Select Committee To Study Governmental Operations With Respect to Intelligence Activities, in seven volumes of hearings, numerous staff reports, and two books of final reports—"Foreign and Military Intelligence" [illegible] "Intelligence Activities and the Righ[illegible] Americans"—has revealed two great dangers to the functioning of a free democratic system: First, the apparatus for a covert foreign policy not subject to congressional controls and, on occasion, not accountable to higher authority in the executive branch; and second, the trappings and practices of a totalitarian "Big Brother" regime capable of snooping into the lives and violating the rights of millions of American citizens.

I urge all Americans to read carefully the final reports of the Church committee, so as to find out how close we have come to a repudiation in practice of the ideals we preach in regard to how we of our democracy should conduct ourselves at home and abroad.

But nothing in the revelations warrants doing away with our intelligence system in our dangerous world. Rather, the question is how best to achieve an effective and accountable system. In the words of Senator MATHIAS, who served on the Select Committee:

> The answer is for Congress to give the intelligence agencies the legal charters and careful oversight that we all know are the best guardians against inefficiency and abuse of power.

Congress, in accepting its constitutional responsibilities can, assist the intelligence community in emerging from its present state with the renewed confidence of the people. But, Mr. President, we should always remain at least a li[illegible]

tle uneasy with a large secret establishment operating at home and abroad. We accept its necessity, but we must watch it vigilantly.

Mr. SCHWEIKER. Mr. President, Congress bears a heavy responsibility for the past abuses by America's intelligence community. For 20 years, since Senator MANSFIELD and others first introduced proposals to establish a new Intelligence Committee, Congress has failed to act positively to improve oversight in this vital area. During that time the CIA opened hundreds of thousands of first-class letters. During that time the National Security Agency targeted Americans whose international communications would be read. During that time the FBI sent scurrilous anonymous letters designed to break up marriages, encouraged gang warfare, passed along political and personal gossip to feed the White House's insatiable appetite and tried again and again to discredit Dr. Martin Luther King. The FBI continued these attempts even after Dr. King was killed. Congress bears some responsibility for all of this.

But the failure of Congress to oversee effectively U.S. intelligence agencies did not result only in the derogation of the rights of Americans. Another result was less efficient and effective operations by the intelligence agencies which are vital to the national security. Congressional oversight might well have helped to eliminate wasteful duplication. Congressional oversight might have prevented the breakdown in FBI–CIA liaison on counterintelligence and might have made us less vulnerable to the activities of hostile foreign intelligence agencies operating in the country. Congressional oversight might have meant not only "more bang for our buck" but "more know for our dough."

The abuses have been detailed. The wastefulness has been described. If Congress does not set up an effective oversight committee now it will be inviting further abuse, further inefficiences, and further weakening of our national security.

The resolution which a number of other Senators and I have submitted would set up a permanent select committee with legislative authority over America's national intelligence activities. It would have the power to authorize the budget for these activities. Unless the committee has these powers it will face the same problems faced by the Senate select committee. Its only power would be the power to disclose. It might be tempted to disclose when that would be inappropriate. Without legislative and authorization power, the committee could hardly overcome the intelligence agencies' reluctance to provide certain kinds of information. It would have to confront without real weapons the intelligence agencies' unwillingness to publicly disclose almost any information at all.

Power to authorize the budgets for American intelligence agencies must lie with the new committee. If it has this power it will carefully scrutinize the whole range of intelligence activities making choices on the basis of economy and efficiency, no committee has had the authority to do this. If it has the power to authorize the national intelligence budget it will be able to make public, with the consent of the Senate, the lump sum expended for national intelligence and finally bring our practices into line with the Constitution which requires that the people be told how much of their money is being spent and for what purposes.

Crucial to the new committee is access to information. The resolution expresses the sense of the Senate that the committee must be kept "fully and currently informed" about intelligence activities. This language, suggested by Senator BAKER was drawn from the Joint Committee on Atomic Energy where it has proven effective in guaranteeing the Congress access to necessary information.

The resolution also notes that the committee should be informed about "any significant anticipated activities." While the committee's consent would not be required before covert actions could be implemented, it is clear that the committee must be provided advance notice about significant activities. As the Government Operations Committee wrote:

> It would be in the interest of sound national policy for the President to be apprised in advance if the committee is strongly opposed to any particular proposed activity.

At the same time the resolution provides for access to information, it requires the committee to draw up procedures designed to insure the security of information provided to it. This was done by the Senate select committee. As a result, there was no leak of national security material from our committee. The resolution also calls for the disciplining of individuals who leak information.

Finally, the resolution sets out a method by which struggles over the public disclosure of classified information can be resolved. If the President objects to public disclosure and the committee persists the Senate as a whole would have to resolve the dispute. This recognizes the importance of the Presidential decision. It also recognizes that the public has a right to know as much as possible about intelligence without the national security being jeopardized. It should be remembered that the President objected to disclosure of information on attempted assassinations of foreign leaders and disclosure of NSA's access to millions of American telegrams.

This resolution is the product of 15-months' work by the hardest working committee on which I have been privileged to serve. It reflects extensive hearings by the Government Operations Committee and the Rules Committee. Based upon my experience on the Armed Services Committee and the Senate select committee I know this resolution is urgently needed and readily workable. The President, DCI Bush, and former DCI's Helms, McCone, and Colby all have called for effective oversight. This measure would provide it. This resolution should be adopted now.

Mr. President, I particularly thank the chairmen of the respective committees who played a critical role in bringing this resolution to the floor of the Senate and in the American constitutional system.

I thank Senator CHURCH, the chairman of our Select Committee, for the yeoman job he did and for the great amount of energy he expended as leader and member of our Intelligence Committee.

I thank and commend the chairman of the Committee on Government Operations, Senator RIBICOFF, and the ranking member of that committee, Senator PERCY, for the great work they did in evaluating and perfecting the resolution proposed.

I thank Senator CANNON, chairman of the Committee on Rules and Administration, for the job that he and the members of the committee, including the assistant majority leader, did in working out the compromise proposal which is before the Senate today and in resolving some honest and real differences that the diverse members of the Senate had with respect to this problem.

I think that when this chapter in American history is written, it will show that this was one of the most important things we have done in this Congress and several Congresses. The extent to which all these chairmen and their respective committees played a part in a very constructive role in that dialog is a real credit to the Senate of the United States.

The resolution which is before the Senate today, for action by this body, is a giant step forward for the American people.

The PRESIDING OFFICER (Mr. CURTIS). What is the will of the Senate?

Mr. DOMENICI. Mr. President, I ask unanimous consent that Joseph Trujillo, of my staff, be granted the privilege of the floor during the remainder of the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Fred Ruth, a member of my staff, have the privilege of the floor during the consideration of this bill and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARY HART. Mr. President, 3 weeks after I arrived in the U.S. Senate, I had the honor of being appointed to serve on the Select Committee on Intelligence. As others have indicated, the work that committee has done over the past 15 months has been more than simply normal, routine legislative business. We have been confronted with perhaps one of the most serious problems that has faced this republic in its existence.

It seems to me that today's resolution of that problem should represent to the American people a sense of restoring their confidence in the system and how it works. If we have done anything, I think it is to show that one house of the legislature of this country can assume responsibility for a very difficult task, approach that task, solve it, and move on.

The fact that those who had serious questions and doubts about this resolution have been able to see their way to support it is a credit not only to them but also to the institution itself.

As a member of the committee, I believe it is not unwarranted to say that we have approached our task hopefully and in a thoughtful, intelligent, and responsible way—the way in which the Founding Fathers intended the Constitution to work.

What we have done, in my judgment, is to strengthen our intelligence capabilities, not weaken them; and I believe that is the judgment of most intelligence professionals in our country. What we are accomplishing here today is to share the responsibility for one of the most difficult tasks that any nation may encounter—certainly, any democracy—and that is to gather information on an hourly basis around the world and base our policies upon that information, and not jeopardize or threaten the constitutional rights of our citizens or the rights of other people around the world.

The intelligence oversight resolution currently before us is unclear on one very important point. It does not contain unambiguous language with respect to prior notification by the Executive to the Senate Oversight Committee of significant CIA covert operations. Section 11(a) of the resolution states:

> It is the sense of the Senate that the head of each Department and Agency of the United States should keep the select committee fully and currently informed with respect to intelligence activities, including any significant anticipated activities, which are the responsibility of or engaged in by such department or agency: *Provided,* That this does not constitute a condition precedent to the implementation of any such anticipated intelligence activity.

It is my understanding that the intent of this language, offered by Senator BAKER, is to preclude prior consent or approval of CIA covert operations by the Senate oversight committee, not to preclude prior notification. Given this intent, the wording of section 11(a) is ambiguous. Congressional intent is unclear. I propose that we make it clear today just what our intent is with respect to prior notification. First, let me trace the legislative history of the prior notice provision.

Over 3 months ago, on January 29, the chairman of the Senate Select Committee on Intelligence, Senator CHURCH, introduced the Intelligence Oversight Act of 1976. That bill, S. 2893, was the committee's best judgment as to the responsibilities and authority of a new standing Senate intelligence oversight committee. It was cosponsored by 8 of the 11 members of the committee, including myself. Section 13(c) of S. 2893 called for the Executive to notify the Senate Oversight Committee of "significant" covert operations—prior to their implementation. I ask unanimous consent that S. 2893 be included in the RECORD following my remarks.

In S. 2893, the select committee did not call for prior approval of CIA covert operations, only prior notice. It did not call upon the Executive to notify the committee of all CIA covert activities, only "significant" ones. In short, section 13(c) was not drawn to infringe upon the Executive's constitutional duties or responsibilities, or to hamper the effectiveness of the CIA. The sole intent of section 13(c) was to allow Congress to advise the Executive before significant CIA covert operations are begun.

The committee chose the word "significant" carefully. During the course of the select committee's investigation, we found that, since 1961, the CIA has conducted some 900 major or sensitive covert action projects and several thousand smaller ones. Most of the CIA's covert action projects are approved internally. Those that are considered politically risky or involve large sums of money go to a National Security Council Subcommittee, known until recently as the 40 Committee, for review and policy approval. As a general rule, the 40 Committee reviewed political and propaganda programs, including support for political parties, groups, or specific political or military leaders; economic action programs; paramilitary operations; and counterinsurgency programs. These are "significant" covert activities. They are the type that go to the NSC Subcommittee for policy approval. They are the type that would require prior notice to the Senate oversight committee.

The Government Operations Committee, to which the select committee's oversight proposal was referred, also endorsed the concept of prior notification. Section 10(a) of the committee's oversight proposal, Senate Resolution 400, stated that the new Intelligence Oversight Committee should be kept "fully and currently informed with respect to intelligence activities, including any significant anticipated activities." I ask unanimous consent that Senate Resolution 400, as reported out by the Government Operations Committee, be included at the end of my remarks.

The Government Operations Committee defined "any significant anticipated activities" as those activities which are "particularly costly financially" and those which have "any potential for affecting this country's diplomatic, political, or military relations wtih other countries or groups." In short, the Government Operations Committee defined significant activities as those which have policy implications.

In its report on Senate Resolution 400, the Government Operations Committee explained that advance notice of "significant anticipated activities" was not equivalent to a veto of these activities. According to the committee report:

> The committee will not be able formally to "veto" by a veto of its members any proposed significant activity it learns about in advance. As a number of present and former Government officials point out, however, including Secretary Kissinger, Mr. Rusk, Mr. Phillips, Mr. Colby, Mr. McCone, Mr. Clifford, and Mr. Helms, it would be in the interest of sound national policy for the President to be appraised in advance if the committee is strongly opposed to any particular proposed activity. In making his final decision, the President should have the benefit of knowing the view of the committee on such important matters.

Neither the original language of Senate Resolution 400, as offered by the Government Operations Committee, nor the language contained in the compromise resolution before us today would legally bind the Executive to notify the oversight committee in advance of significant covert operations. Only a statute can do that. A resolution only expresses the "sense of the Senate." The Select Committee on Intelligence took this into account when it issued its foreign intelligence final report on April 26. In that report, the committee recommended that, by statute, the Director of Central Intelligence keep the new intelligence oversight committee fully informed of each covert action prior to its initation.

The only statute we now have relating to notification of Congress by the Executive of covert operations is the Hughes-Ryan amendment to the 1974 Foreign Assistance Act. That amendment requires the President to certify that covert operations in foreign countries, other than those intended solely for obtaining necessary intelligence, are "important to the national security of the United States" and to report, "in a timely fashion," a description and scope of these operations to the appropriate committees of Congress.

This has meant, in practice, reporting to the Armed Services, Foreign Relations, and Appropriations Committees of both Houses as well as two select intelligence committees. The Senate select committee recommended that the Hughes-Ryan amendment be amended, once the Senate established an intelligence oversight committee with authorization authority, to provide that the covert action notifications and Presidential certifications to the Senate be consolidated in the new oversight committee. I support this recommendation, although I will propose that prior notification be a part of any amendment to Hughes-Ryan.

The Senate must have prior notification of significant CIA covert operations. The Senate must know about and be able to advise the President if he intends to mount a paramilitary operation—such as in the Congo, Laos, or Angola, promote a military coup—as in Chile between September 15 and October 24, 1970, or wage economic warfare—such as operation Mongoose, directed against Cuba. Covert activities are too dangerous—and too controversial—to be a tool used by the President without congressional consultation.

Prior notification is essential for another reason. The select committee found that the secrecy and compartmentation which surrounds covert operations contributes to a temptation on the part of the Executive to resort to covert operations to avoid bureaucratic, congressional, and public debate. The select committee found that the Executive has used the CIA to conduct covert operations because it is less accountable than other government agencies. Further, the committee found that the temptation of the Executive to use covert action as a "convenience" and as a substitute for publicly accountable policies has been strengthened by the hesitancy of the Congress to use its powers to oversee CIA covert action. Prior notice will help

to alleviate, if not solve, many of these problems.

The select committee and the Government Operations Committee have not been alone in calling for prior notification. For example, former Secretary of Defense Clark Clifford told the select committee:

With reference to covert activities, I believe it would be appropriate for this committee to be informed in advance by the executive branch of the Government before a covert project is launched. The committee should be briefed and, if it approves, then the activity can go forward. If the committee disapproves, it should inform the President of its disapproval so that he will have the benefit of the Joint Committee's reaction. If necessary, the President and the committee can confer, after which the President may decide to abandon the project or possibly modify it. If he persists in going ahead despite the committee's disapproval, then the committee might wish to withhold funds necessary to finance the activity in question. It is my feeling that the importance of the decisionmaking process in this very delicate field is such that there should be a joint effort by the executive and legislative branches.

Cyrus Vance, a former Deputy Secretary of Defense and a member of the predecessor to the 40 Committee—the 303 Committee—had this to say about prior notice:

I would recommend that the President be required to give his approval in writing, certifying that he believes the proposed [covert] action is essential to the national security. After the President's approval, I would suggest that a full and complete description of the proposed action be communicated immediately to a joint congressional oversight committee . . . I believe that such a step would then put the committee or any of its members in a position to express their disapproval or concerns about the proposed action, and communicate them to the President of the United States.

I am not suggesting that the committee should have a veto. I do not believe that is necessary. I am suggesting that the committee or its individual members would be able to communicate with the President, thus giving him the benefit of the committee's advice or of the advice of individual members.

Finally, former CIA Director Richard Helms has also come out in support of prior notice. In an exchange with Senator RIBICOFF of the Government Operations Committee, Mr. HELMS stated:

Senator RIBICOFF. At what stage should an oversight committee be brought into the covert activity, or the covert planning? . . . which should be the relationship between the Intelligence Agency and the Oversight Committee?

Mr. HELMS. It seems to me that on this question of oversight, one should be able to come to the committee and sit down and discuss a proposed operation to find out whether or not this was something that was going to be supported by the committee.

I say this for a very simple and practical reason. That is, if you are going to embark on some covert action which involves money, relationships, assets and all the rest of it, it seems hardly sensible to embark on some ambitious program like that, if your leg is going to be cut out from under you two or three months later when you are in mid-stream.

Therefore, if there is going to be congressional oversight and the Congress is going to work with the executive branch in these matters, then it seems to me that it has to go along hand in hand, for practical, if not legal, reasons.

Mr. HELMS concluded by saying that as a practical matter, "if there is going to be an Oversight Committee I think they ought to be in on the takeoff."

The Senate must have prior notification of significant CIA covert operations. The resolution before us does not state that explicitly. Although the resolution, if passed, will not bind the Executive, I believe it is important to place the Executive on notice that it is the clear intent of the Senate that it be given advance notice of approved CIA covert operations before they are implemented.

In closing, I quote from the select committee's final report on foreign intelligence:

The committee's review of covert action has underscored the necessity for a thoroughgoing strengthening of the Executive's internal review process for covert action and for the establishment of a realistic system of accountability, both within the Executive, and to Congress and to the American people. The requirement for a rigorous and credible system of control and accountability is complicated, however, by the shield of secrecy which must necessarily be imposed on any covert activity if it is to remain covert. The challenge is to find a substitute for the public scrutiny through congressional debate and press action that normally attends Government decisions.

I believe this challenge can be met. But Congress and the Executive must work together. It is for this reason that I believe prior notification is essential.

I think the feeling on the part of the members of the Select Committee is that those who will have the responsibility of watchdogging intelligence gathering through agencies of our Government should have cooperation and timely notice of the activities being undertaken by those agencies on behalf of the American people.

I join my colleagues in congratulating not only the leadership of the various committees, but Members of the Senate who have seen fit to support this measure as a sound, reasonable, thoughtful, and intelligent approach to this kind of peculiar problem in this country. I think that history will have to judge whether we have done the right thing or the wrong thing, but I believe that the facts speak for themselves: that we have taken the steps that have to be taken to preserve and protect our own liberties and safeguard the future of this country.

I thank the Chair.

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. PERCY. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an amendment on page 3, line 24, strike "nine" and insert "eight".

Mr. PERCY. Mr. President, the amendment would simply do this: Under the agreement that had been reached in the compromise amendment, every member assigned to this committee would serve for a term of no longer than 9 years. Members of the staff pointed out to the distinguished chairman of the Committee on Rules and Administration that a 9-year maximum term would require the interruption of a Congress and that it would be better to have an even number of years. Therefore, the purpose of the present amendment is to reduce the maximum number of years that any Senator can serve on the Intelligence Oversight Committee from 9 to 8 years. Obviously, it could be 10. The Senator from Illinois prefers 8. I so offer this amendment.

I understand that it has the acceptance of the chairman of the Committee on Government Operations, the manager of the bill, and that the distinguished Senator from Nevada, the chairman of the Committee on Rules and Administration, may wish to comment on it. It was the impression of the Senator from Illinois that he concurred, as I do, with 8 or 10 years.

Mr. CANNON. Mr. President, I have no problem with the proposal. I do think it is better to have 8 or 10 than it is the 9-year period of limitation, because it would coincide with terms of Congress.

Mr. RIBICOFF. Mr. President, I accept the amendment of the Senator from Illinois as the manager of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. MANSFIELD. Mr. President, I ask that all those who have amendments—I understand there are one or two on the Republican side and one on this side—come to the floor, because there is a reasonable chance that we can finish this bill today if the Members are here and we dig in. If we cannot do it by 6:30, we shall go over until tomorrow. If we can finish it by 6:30, we shall go over at the end of business today to Monday.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOSS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE JOINT RESOLUTION 196—PERTAINING TO THE ESTABLISHMENT OF THE SMITHSONIAN INSTITUTION

Mr. MOSS. Mr. President, I send to the desk a joint resolution on behalf of myself, Mr. Hugh Scott, and Mr. Jackson and ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S. J. Res. 196) providing for the expression to Her Majesty, Queen Elizabeth II, of the appreciation of the people of the United States for the bequest of James Smithson to the United States, enabling the establishment of the Smithsonian Institution.

The PRESIDING OFFICER. Is there objection to its immediate consideration? The Chair hears none, and it is so

ordered. Without objection, the joint resolution will be considered as having been read the second time at length.

Mr. MOSS. Mr. President, this is simply an expression of Congress to be presented to the Queen when she appears here on the 8th of June, of appreciation for the bequest of James Smithson, who founded the Smithsonian Institution, in which we express gratitude that Mr. Smithson, a British subject, did that for the United States.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 196), with its preamble, reads as follows:

S.J. RES. 196

Joint resolution providing for the expression to Her Majesty, Queen Elizabeth II, of the appreciation of the people of the United States for the bequest of James Smithson to the United States, enabling the establishment of the Smithsonian Institution

Whereas James Smithson, British subject, scholar and scientist, bequeathed his entire estate to the United States of America "to found at Washington under the name of the Smithsonian Institution an establishment for the increase and diffusion of Knowledge among men;" and

Whereas the Congress of the United States in 1836 accepted the bequest and pledged the faith of this nation to the execution of this trust, and in 1846 provided for the establishment of the Smithsonian Institution; and

Whereas the Smithsonian Institution, since the time of its founding, has been mindful of the charge stated in the will of James Smithson and has, through research and publication, through the collecting of natural history specimens and objects of art, culture, history and technology, and through the creation of museums for the display and interpretation of these collections, been privileged to share its resources, not only with the people of the United States, but with the world community, for purposes of education, enlightenment, and betterment; and

Whereas the generous and inspiring bequest of James Smithson continues to enrich the lives of citizens of every nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That on the occasion of the visit of Her Majesty, Queen Elizabeth II, during this year of the Bicentennial of the United States, the people of this nation make known their appreciation and gratitude for the gift of James Smithson, a gift whose significance grows with the passage of time and remains a lasting symbol of the indivisible cultural bonds which link Great Britain and the United States of America.

Mr. MOSS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PHILIP A. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PHILIP A. HART. Mr. President, I ask unanimous consent that during further consideration of Senate Resolution 400, Burton Wides of my staff be permitted access to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PHILIP A. HART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER DISCHARGING COMMITTEE ON GOVERNMENT OPERATIONS FROM FURTHER CONSIDERATION OF S. 2715

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Committee on Government Operations be discharged from further consideration of S. 2715, and that the Committee on the Judiciary be authorized to report the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, yesterday the Senate Committee on the Judiciary ordered reported S. 2715, a bill to amend the Administrative Procedure Act to permit awards of reasonable attorney fees and other expenses of participation in proceedings before Federal regulatory agencies and on judicial review of agency actions. This bill was introduced November 20, 1975, by Senator KENNEDY, and I was pleased to join him as cosponsor of this important measure. At the time the bill was introduced, unanimous consent was obtained to have the bill referred to both the Committee on the Judiciary and the Committee on Government Operations, with instructions that either committee report within 30 days of the other committee.

With the agreement of the ranking minority member of the Committee on Government Operations, Senator PERCY, I have requested unanimous consent today that our committee be discharged from further consideration of S. 2715. I have done so in light of the requirements under the Senate's new budget process that each bill authorizing the expenditure of Federal funds be reported to the floor by May 15, 1976. I had hoped that the Committee on Government Operations would have had the opportunity to consider fully S. 2715 before Senate action, but the present workload of the committee makes it impossible for us to consider the bill formally by the time deadline. However, I believe that this bill would provide such significant and necessary assistance to both the public and the agencies that any delay in passage is highly undesirable. I certainly do not want our heavy agenda to impede in any way the chances for obtaining appropriations under this legislation for fiscal year 1977.

The Committee on Government Operations has a direct and strong interest in the subject matter of this bill. Providing support for citizen involvement in our agency processes is an integral element of strengthening the institutions of government. It is a matter which our special study on regulatory reform is addressing. It is consistent with and complementary to the institutional advocacy of consumer interests in Government proceedings that would be afforded by the Agency for Consumer Advocacy, which our committee developed and which would be established by a bill that has passed both the House and Senate earlier in this Congress.

Furthermore, in the 93d Congress, the Government Operations Committee reported out the legislation which established the Energy Research and Development Administration and the Nuclear Regulatory Commission. The bill which passed the Senate contained a provision similar to S. 2715 which would have provided financial assistance to intervenors in NRC proceedings. While that provision was subsequently deleted in the conference, the Government Operations Committee had and continues to have a great interest in the concepts embodied in S. 2715.

While I believe that the bill ordered reported by the Committee on the Judiciary contains substantial improvements and useful clarifications as amended by that committee, I doubt that the 3-year authorization imposed by that committee will give the legislation enough time to have the fullest possible impact. This may not be an adequate amount of time for Congress to evaluate adequately the success of the program, and I hope this matter can be addressed when the bill comes up for deliberation on the floor.

I also want to commend Senator Kennedy, the Committee on the Judiciary, and its Subcommittee on Administrative Practice and Procedure for their efforts which led to the report of this important bill.

The Committee on Government Operations, while being discharged from formal consideration of S. 2715, will certainly continue to examine both the specific provisions of the bill and the general principles it embodies, so that we continue to make our own contributions to the development of legislation in this area.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The Senate continued with the consideration of the resolution (S. Res. 400) to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

Mr. HUDDLESTON. Mr. President, on behalf of Senator ROTH, Senator JAVITS, and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) for himself and Mr. ROTH and Mr. JAVITS proposes an amendment:

On page 15, line 9 strike section 8(d) and insert in lieu thereof:

(d) It shall be the duty of the Select Committee on Standards and Conduct to investigate any unauthorized disclosure of intelligence information by a Member, officer or employee of the Senate in violation of subsection (c) and to report to the Senate concerning any allegation which it finds to be substantiated.

Mr. HUDDLESTON. Mr. President, one of the major concerns of many of us interested in developing an oversight committee for our intelligence operations has been that such a committee be responsible in its handling of secret and sensitive information.

Many of us felt from the beginning that the Senate should be willing to impose upon itself a certain restraint—a certain discpline—with regard to the manner in which such information is handled.

This particular section of the substitute represents an effort to set out a procedure for handling any unauthorized disclosure of information that the committee had determined should not be disclosed. That procedure envisions an investigation by the Select Committee on standards and conduct and recommendations from that Committee in cases where the allegation is substantiated.

The amendment that is before the Senate at this time is designed to clarify section (d), which is found on page 15 of the bill—to make it clear that the Select Committee has the duty to investigate unauthorized disclosures but also to provide flexibility so that unsubstantiated or frivolous matters would not have to be reported back to the Senate.

The other sections of the so-called sanctions provision which are not being modified seek to delinate what information is to be protected and to suggest procedures which should be followed when an investigation is pursued.

It is my judgment that the amendment I have just offered does clarify this matter and does provide a viable and workable procedure whereby we can exercise the proper discipline and the proper restraint upon Members of the Senate, members of the Select Committee on Intelligence, and staff so that the new committee can enjoy the confidence that will be necessary if it is to carry out its duties in a responsible way.

I move that the amendment be adopted, and I yield to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, this is a subject in which I am deeply interested myself. I was a party to the proceedings before the Government Operations Committee respecting it. I worked out the provision which is now in the bill.

I share completely the sentiments and disquiets voiced by my colleague from Kentucky and my colleague from Delaware.

I consider this, as Senator CANNON said, a key element—perhaps the key element—in the bill. Are we worthy of this trust?

I am deeply indebted to both my colleagues for the intelligent way they have worked out the ultimate purpose of their amendment.

I felt, Mr. President, just to present my remarks of record, that if we could—I emphasize this—if we could, we should avoid any appearance of pitting Member against Member or of any appearance of indictment. I believe that what we have worked out admirably does this.

I hope very much that the managers of the bill will agree.

Mr. ROTH. Mr. President, I am pleased to join the two Senators in sponsoring this compromise. I would like to point out that in the Government Operations Committee I was particularly concerned about assuring that sensitive information supplied to the oversight committee would be held in confidence and, in the event of any violation of that confidence, the Senate would discipline any Member of the Senate or any employee according to its own rules.

I think the only way we can be certain that the Oversight Committee is going to secure the information from the executive branch that it needs to provide effective oversight is to make certain that the executive branch believe that we will exercise the self-discipline that is necessary. I am pleased that the compromise legislation essentially adopts the language that I sponsored in the Government Operations Committee.

I think the final proposal that Senator HUDDLESTON just suggested is a reasonable compromise as to how we initiate action to require an investigation of unauthorized disclosures.

We want to assure that the Ethics Committee will take action any time a serious charge is made.

I find in my home State that many people are concerned whether or not Congress is exercising the same discipline on itself that it expects from the private sector and executive branch. For this reason, I think it is very important that we show that we are deadly serious that the Senate and its Members, like everyone else, must abide by any secrecy that we have ourselves established on this information. For that reason, I am happy to join in sponsoring the compromise.

Mr. PERCY. Mr. President, I commend Senator HUDDLESTON, Senator JAVITS and Senator ROTH for this amendment. I ask unanimous consent that I be added as a cosponsor of the amendment.

The PRESIDING OFFICER (Mr. PEARSON). Without objection, it is so ordered.

Mr. PERCY. I think the heart of a cooperative relationship between the intelligence community in the executive branch of Government and the Congress is a feeling of confidence on the part of the intelligence community that information transmitted to the Congress and its appropriate committees will be treated in confidence. There can be no relationship of mutual confidence established if there is a feeling that whatever is given in classified form is going to be dispersed without adequate checking procedure, and that if any member does breach confidentiality no action would be taken.

There is a cynical feeling that the Congress is reluctant to discipline its own membership, that it is a sort of inside club where sometimes indiscretions are overlooked.

This amendment specifically addresses itself to the fact that it is the duty of the Committee on Ethics and Conduct to investigate, look into, and take action with respect to a breach of confidentiality in intelligence matters.

I believe the amendment is sound. It not only is needed and necessary, but it will help establish the kind of a relationship which can, should, and must exist between the executive branch of Government and Congress, if the Congress is to fulfill and carry out its duties and obligations. It will be reassuring in that respect.

Mr. CANNON. Mr. President, I find no difficulty with the amendment as proposed.

I would say to my colleague from Illinois, however, when he pointed out it would be the duty of the committee to investigate, we have rules within the committee which we have defined to say when we will investigate matters and when we will not, so that we do not go on witch hunts into unsubstantiated information.

I want to make it clear to the Senator that, as chairman of the committee, if I am still chairman, we would consider it our duty but we would still require that any allegation comply with the rules the committee has adopted, so that we would not necessarily be investigating on the basis of anonymous complaints or a statement someone has made, and things of that sort, without having some kind of substantiation.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. CANNON. Yes.

Mr. PERCY. As a further clarifying comment, as I read the amendment which has been worked out now and agreed to by the authors, a duty is imposed upon the Select Committee on Standards and Conduct to make an investigation of any unauthorized disclosure of intelligence information.

In conversations about this, there was a proposal, and it was discussed at great length in the Government Operations Committee, as to whether it would be necessary before an investigation was made for any Member of the Senate or a group of Members of the Senate to actually make charges and request that such an investigation be made. It was felt, and I believe very wisely so, by the distinguished Senator from New York (Mr. JAVITS), that that might, in itself, almost constitute an indictment.

If the committee had that duty, and it is the duty of the committee to make such an investigation, it is up to it to determine whether, in fact, there has been an unauthorized disclosure of intelligence information. Then it automatically is their duty to follow through. No other Member of the Senate need

take action other than the members of that committee.

Mr. JAVITS. Mr. President, will the Senator yield to me so the intent will be clear?

Mr. CANNON. Certainly.

Mr. JAVITS. There is nothing in here which interferes with the internal administration of the committee and its rulings. In short, it is like an appellate court, which might meet in confidence on a particular decision. The committee will decide whether it is frivolous, whether it is unauthorized, and an additional factor, whether it is substantiated. Then they are required to report to the Senate. The responsibility is in their hands but we give them the guidelines. As to how they discharge that responsibility is internal to the committee.

Mr. CANNON. I thank the Senator.

Mr. HUDDLESTON. Mr. President, will the Senator yield at that point?

Mr. CANNON. I yield.

Mr. HUDDLESTON. I wanted to confirm the position taken by the distinguished Senator from New York. I point out that one of the important aspects of the responsibility of the Select Committee on Standards and Conduct would be to eliminate frivolous charges which might be made. I believe we ought to be aware that one way to harass the committee in the performance of its duty, regardless of what the source might be, whether it be an agency downtown, the White House, the press, or Members of the Senate, would be a series of charges regarding release of information which should not be disclosed.

This does impose on the Select Committee on Standards and Conduct a considerable responsibility in reviewing these charges, of examining the information which comes to them, and reporting back to the Senate on those which seem to be substantiated. But, it also seeks to make it clear that the committee is to have the flexibility, the discretion, to dismiss frivolous and unwarranted allegations.

Mr. RIBICOFF. Mr. President, this is an excellent amendment, and as manager of the bill I find it acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIBICOFF. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CANNON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes an amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 19, strike out "seventeen" and insert "fifteen"; on page 3, line 3, strike out lines 3 through 5 inclusive and insert in lieu thereof "seven members to be appointed from the Senate at large." On page 3, line 12, strike out "five" and insert "four"; on page 3, line 15, strike out "four" and insert "three."

Mr. CANNON. What this amendment does is change the membership of the committee from 17 to 15. It leaves the basic appointments the same: two members from the Committee on Appropriations, two members from the Committee on Armed Services, two members from the Committee from the Committee on the Judiciary. Then it says that the remaining seven members shall be appointed from the Senate at large. The manner of appointment is the same, four appointed under the clause E by the President pro tempore of the Senate upon recommendations of the majority leader, and three by the President pro tempore upon recommendations of the minority leader.

Mr. President, first with respect to the size of the committee: The Select Committee on Intelligence, which did such a fine job for us, was composed of 11 members, and they were able to do their job very well. This amendment would reduce the proposal from 17 to 15.

Mr. President, I offer this amendment because it proposes to create a select committee composed of Senators selected on a basis that would not give due representation to the Senators who make up the standing committees on Appropriations, Armed Services, Foreign Relations, and the Judiciary. The formula as proposed in the amendment would allow only 8 Senators to represent the membership on those 4 committees which now have jurisdiction over the intelligence activities of our Government which number 61 of the total 100 Senators while 9 would be appointed from among the other 39 Senators.

It should be emphasized that a membership of 17 tends to make a somewhat unwieldy committee. Compare this with the Joint Committee on Atomic Energy, for example, the most comparable situation that we now have. That committee has only 18 members consisting of 9 from each House.

In the case of the Select Committee on Government Operations With Respect to Intelligence Activities, it had only a membership of 11; only 3 of that 11 were not members of the 4 standing committees enumerated above. What we propose in the pending substitute would prohibit the Senate from appointing all of those illustrious Senators who made up the Senate Select Committee on Intelligence Activities which did a job which was so highly commended by the Senate. Therefore, it would appear to me that we should look at this situation very seriously with a view that with a smaller membership the committe could work more efficiently and reduce the possibility of sensitive or secret information from being improperly disclosed at the same time give the four standing committees concerned and the other Members of the Senate not on those committees a more equally balanced representation.

I point out that even the Joint Committee on Atomic Energy, which is the joint committee going into investigative matters, is composed of only 18 members, 9 from the Senate and 9 from the House of Representatives.

With respect to the other limitation provisions that we had in the original resolution, it was drafted so that only eight members of the committee could be from the four committees enumerated and nine members would be from the remainder of the Senate, exclusive of those four committees, which meant there were 59 Members of the Senate who are members of those four committees, so 59 percent of the Members of the Senate would make up eight members of the committee and 41 percent of the Senate would make up nine members of the committee. This gives a more equitable balance, but if the leadership in its wisdom should happen to select a Senator for that committee who happened to be a third person on one of the other committees, the leadership would not be precluded by law from so doing.

I point out to the Senate that under the original language in the substitute, as it now exists, there are two members of the present Select Committee To Study Governmental Operation With Respect to Intelligence Activities who could not serve or be reappointed to the new committee under that type of a ground rule.

I think we have reliance on our majority and minority leaders; and the amendment would remove the prohibition, so we would not be in a position that we could not appoint, if the leadership so desired, three members from the Committee on Armed Services and three from the Committee on Appropriations, who served so well on this committee, simply because they were the third person.

I have cleared this amendment with Senator PERCY, Senator RIBICOFF, and Senator MANSFIELD.

Mr. RIBICOFF. Mr. President, the amendment is acceptable to me. I have talked with Senator MANSFIELD, Senator PERCY, and Senator CANNON, and it is acceptable to them as well.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. MORGAN. Mr. President, I desire to be heard on this amendment.

While I first heard about this proposed amendment only a few moments ago, it strikes me as an extremely dangerous amendment for the effectiveness of the resolution.

I do not wish to be the only Senator to object, but I feel strongly about this situation.

I agree with the distinguished Senator from Nevada that a committee of 17 members is rather large, and while we were trying to reach some understanding with regard to the resolution I express my concern about this amendment, but I thought, in order to go along with the resolution and to have a resolution considered and agreed to, it would be better to proceed, accomplish that, and have it over with.

But it seems to me that what we are doing now is we are giving control

this new committee, that is being created for the purpose of oversight of intelligence agencies, back to the same committees that have had the oversight of these intelligence agencies during the period of time when so many of these abuses took place.

One of the compelling arguments for the creation of this committee was the fact that these very committees from which we are now proposing to select the majority, the Committees on Appropriations, Armed Services, Foreign Affairs, and the Judiciary, carry the heaviest load in the Senate, and one of the reasons that was given for the creation of a special committee was to create a committee that would have adequate time to devote to the oversight functions of the committee.

Mr. CANNON. Mr. President, will the Senator yield for a question?

Mr. MORGAN. I yield.

Mr. CANNON. Was the Senator aware of the fact that the Intelligence Committee itself, made up of 11 members, was composed of 8 members from those 4 committees?

Mr. MORGAN. I am very well aware of that fact. But the committee was created for a special purpose with an extremely large staff, a much larger staff than we are ever going to have, I certainly hope, in this oversight committee, but as it now is set up we would have a majority of Senators from these same four committees, that day after day, week after week, month after month, and year after year are going to have the responsibility for proposing legislation concerning the Armed Forces and the foreign affairs of the United States, and the apropriations, which affect every espect of Government, including the judiciary, and the affairs of this country.

This does not strike me as being in the best interests of the Oversight Committee.

If we are going to place all the responsibility right back in the hands of those where it has been through all the period of time when the abuses took place, I am not sure we will have accomplished very much.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. MORGAN. Mr. President, there is objection.

The PRESIDING OFFICER. Objection is heard.

The call of the roll was continued.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TAFT). Without objection, it is so ordered.

Mr. CANNON. Mr. President, I modify my amendment by the addition of the following:

On page 3, line 11, strike commencing with the word "after" to and including the word "member" on line 12.

The PRESIDING OFFICER. The amendment is so modified.

Will the Senator send the modification to the desk?

The modification is as follows:

On page 3, lines 11 and 12, strike the following "after consultation with their chairman and ranking minority member."

Mr. CANNON. Mr. President, the part I have just stricken removes the provision limiting the appointment by the majority leader and the appointment by the President pro tempore upon recommendation of the majority and minority leaders, to after consultation with the chairmen and ranking minority members of the four committees concerned.

This gave some members a problem. However, I want to make it clear that we would certainly expect that the majority and minority leaders would consult the chairmen of the respective committees involved before naming Senators to the membership of the committee.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. CANNON. I yield.

Mr. PERCY. The Senator from Illinois addresses this question to the chairman of the Committee on Rules and Administration and to the distinguished majority and minority leaders.

It is the understanding of the Senator from Illinois that it would be the intention of the majority and minority leaders, in the case of membership to be drawn from these four named committees, to consult the chairman and the ranking minority member—not be bound by their judgment, but certainly discuss the issue with them. In the selection of the at-large members, they would make their selection, and then the entire slate would be submitted to the caucus, for the reaction of the caucus, on both the majority and minority sides.

The Senator from Illinois would appreciate a clarification as to how the majority and minority leaders would intend to act under the provisions of this particular section.

Mr. HUGH SCOTT. Mr. President, if the Senator will yield, that would run counter to the rules of the Senate and the provision of the law, which require that when appointments are made by the majority and minority leaders, or by the President pro tempore on the recommendation of the majority and minority leaders, that is the way it is done. Therefore, it could not be further limited as the Senator from Illinois suggests.

Mr. CANNON. In other words, those appointments are subject to the approval of the Senate as a whole but not required to be approved by the caucus, and there is no provision written into the law with respect to the caucus.

Mr. PERCY. Could you clarify as to how the procedure actually is carried out?

Mr. CANNON. I would have to yield to the majority and minority leaders to explain their position on that.

Mr. HUGH SCOTT. If I may speak for the time I have remaining in this body, it would be obvious, I think, that the minority leader always consults with the ranking minority member. I cannot imagine a future minority leader putting at risk the further hazards of his job by doing otherwise, and I am sure the majority leader has the same opinion.

Mr. PERCY. With respect to those to be drawn at large——

Mr. HUGH SCOTT. I am speaking of those to be drawn at large.

Mr. PERCY. Then there would be presentation of those names to the——

Mr. MANSFIELD. To the full Senate.

Mr. HUGH SCOTT. That is in accordance with law.

Mr. RIBICOFF. Will the Senator yield?

Mr. CANNON. Yes, I yield.

Mr. RIBICOFF. It is my understanding and has been my understanding throughout these discussions that the appointing authority ultimately and absolutely rests with the majority and minority leaders. Is that not correct?

Mr. CANNON. That is correct.

Mr. RIBICOFF. It is expected, as a basis of comity, that the majority and minority leaders will discuss the appointments with the chairmen and ranking minority members of these four committees. Is that not correct?

Mr. CANNON. The Senator is correct.

Mr. RIBICOFF. But is it not also true that there is no obligation on the part of the majority and minority leaders to take the recommendations of the chairmen and ranking minority members?

Mr. CANNON. The Senator is correct.

Mr. RIBICOFF. During all these discussions and at the hearings, and, as a matter of fact, questioning Senator MANSFIELD when he appeared before the Committee on Government Operations as to the makeup, Senator MANSFIELD—speaking for himself, of course, and not for Senator SCOTT—pointed out that in making these appointments, he would take into account the makeup of the entire Senate to reflect, for example, the sectional diversity of the Senate, the differences in seniority, and age, and the like. I have the utmost confidence in the appointing discretion of Senator MANSFIELD and his wisdom and judgment. No matter what we write in as formula, I am confident that Senator MANSFIELD and Senator SCOTT on this first committee will see to it that the first appointments to the committeee reflect the composition and the philosophy of the entire Senate.

I am sure that whether this committee will be a success or a failure will depend upon the 15 Members chosen by the majority and minority leadership. I am also confident that they will exercise this responsibility to make sure that the Intelligence Committee will do the job it has been intended to do by the legislation before us.

Mr. CANNON. I agree completely with the Senator.

I yield to the Senator from North Carolina.

Mr. MORGAN. Mr. President, I would have, of course, preferred that the committee remain as it was constituted before, but I do think that the Senator's modification of the amendment makes it more acceptable. It may appear to some to be just a question of semantics, and I certainly agree that no majority leader would make an appointment to this committee from any given one of the four committees without first conferring

with the chairman or the ranking minority member. But it seems to me that when we write it into the statute or into the resolution, it carries an implication that could be drawn from it that it would be mandatory. You and I know that that is not what the language says. What gives me some concern is that, years down the road, after some of us are gone, or most of us are gone, it could be interpreted that way. So with the modification, Mr. President, I think the amendment, as I say, is more acceptable, and I shall vote for it in the interest of trying to get this resolution through, but, I would have to say reluctantly.

Mr. WEICKER. Mr. President, I rise to oppose the amendment. I think it is a bad amendment. I think it is a bad amendment in view of the history that we have before us.

When the compromise was worked out, I think it should be clearly stated that it was between those of us who felt there should be no designation at all from any committee and those who wanted to have a membership which was very heavily from the existing oversight committees. The compromise that was arrived at provided that those existing committees can still be represented in large measure, but there would be a majority in the hands of "outside members."

I do not see where the track record is deserving of any vote of confidence by this body in the existing committees. I am laying it right on the line. The job of oversight has always been within our powers as a body. We have failed to exercise those powers through the various committees responsible for oversight.

We are all human and finite. Nobody wants to say that those committees should not be entrusted with that responsibility, but I see no reason why they, once again, should be put in the driver's seat. They have been in the driver's seat and the track record is an unmitigated disaster.

I could probably guess, from those who are agreeing to this amendment, that it will pass, but I want to voice very strongly my objections to it. I think the initial compromise was a good one for all hands and, yes, I think there ought to be a committee which is controlled, in the main, by those who have not participated previously in the oversight process, but still having the expertise and the knowledge that can be afforded by our colleagues who have been dealing with these subjects over a long period of time.

I do not know if the yeas and nays have been requested on this amendment, but I feel so strongly on this point, that it goes to the essence of this whole matter before the Senate—I must confess I am quite surprised at having to rush in here and find that such a vital point, which is a key part of the negotiation, has just been blithely dealt off.

Mr. President, I ask for the yeas and nays on this matter.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. MANSFIELD. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada, as modified. On this question, the yeas and nays have been ordered.

The clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from New Hampshire (Mr. DURKIN) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), and the Senator from Hawaii (Mr. FONG) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. HRUSKA) is absent on official business.

The result was announced—yeas 75, nays 17, as follows:

[Rollcall No. 176 Leg.]

YEAS—75

Allen	Hansen	Nunn
Bartlett	Hart, Gary	Packwood
Bayh	Hart, Philip A.	Pastore
Bellmon	Hartke	Pell
Bentsen	Hatfield	Percy
Brock	Helms	Proxmire
Buckley	Hollings	Randolph
Burdick	Huddleston	Ribicoff
Byrd, Harry F., Jr.	Humphrey	Roth
Byrd, Robert C.	Jackson	Scott, Hugh
Cannon	Javits	Scott, William L.
Case	Johnston	Sparkman
Chiles	Leahy	Stafford
Church	Long	Stennis
Curtis	Magnuson	Stevens
Dole	Mansfield	Stevenson
Domenici	McClure	Stone
Eastland	McGee	Symington
Fannin	McGovern	Taft
Ford	McIntyre	Talmadge
Garn	Metcalf	Thurmond
Glenn	Mondale	Tower
Goldwater	Montoya	Williams
Gravel	Morgan	Young
Griffin	Moss	
	Muskie	

NAYS—17

Abourezk	Cranston	Mathias
Beall	Culver	Nelson
Biden	Haskell	Pearson
Brooke	Hathaway	Schweiker
Bumpers	Kennedy	Weicker
Clark	Laxalt	

NOT VOTING—8

Baker	Fong	McClellan
Durkin	Hruska	Tunney
Eagleton	Inouye	

So Mr. CANNON's amendment, as modified, was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. BUCKLEY). The Senator from Iowa.

Mr. CLARK. Mr. President, I rise in support of Senate Resolution 400; but not without reservation.

My colleagues have spoken very clearly and convincingly about the need to establish a permanent, strong, and effective Senate committee with authority over the entire U.S. intelligence community. I will not repeat their arguments.

Rather, I wish to speak—ever so briefly—about what this resolution does not do. As a strong supporter of Senate Resolution 400, perhaps I am entitled to discuss its omissions; that is, those issues which are not dealt with in this resolution.

Mr. President, it has been difficult even to keep track of the recent revelations of frightening abuses committed by our intelligence community. The illegalities and transgressions brought to light through the outstanding efforts of the Church committee need no further documentation from me.

The sheer magnitude of abuse has left many of us numb.

I hope it has not left us blind.

I hope nobody is suffering from the misconception that any action we take on Senate Resolution 400 will, by itself, bring a halt to the appalling activities in which the intelligence community has engaged. I hope nobody believes that Senate Resolution 400 really addresses the most difficult and controversial issue we face; that is, what are the limits of intelligence activity in a free and democratic society?

I want just to touch on one aspect of that central issue with which I have some familiarity: the use of covert action as a primary tool in the execution of American foreign policy.

The final report of the Church committee documents the fact that CIA conduct of covert operations may well have eclipsed the primary purpose for which the agency was established; namely, foreign intelligence gathering. The sheer volume of covert operations has been staggering—at least 900 major covert action projects, plus several thousand smaller operations, in the last 15 years, an average of more than 1 a week. Whether large-scale paramilitary actions or simple bribery of foreign officials, the goal has been the same: secret manipulation of the affairs of other nations.

Are we going to allow that kind of activity to continue? Is it wise for the United States to have an avowed policy of violating the laws of other nations whenever we think it appropriate? Should we continue to contend that we somehow have the right to intervene secretly in the free eletcions of other nations, as we have done in Chile and Italy and Portugal? Do we want to assert, as a principle of our foreign policy, that we may assassinate heads of state, finance military invasions, or provide military training and equipment to political factions whenever and wherever it is deemed to be in our own national interest? None of these abuses are halted by this resolution; that is not the purpose of the resolution.

Do we want the United States to stand for such principles of international illegality and unrestrained foreign intervention? Is that the role we choose to play in the community of nations?

Must we continue our heavy reliance on covert action in order to survive? Must we adopt the tactics of the enemy? Must we play by their rules? And if we do, and if we should prevail, what will we have gained? What kind of nation will we be if, in order to survive, we have cast aside the basic principles on which our Nation was founded? If we become the same as our adversaries, what differences will our winning have made?

I believe we must face up to these questions, and simply forming a new committee is not enough. I believe we must chart a new course for our intelligence community, and for our foreign relations. I hope that creation of the right kind of intelligence committee, with the right kinds of powers, at least can help chart that course.

I yield to the Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, lines 10 and 16 strike sections 8(b) 3 and 4 and, insert the following:

"8(b) (3) If the President notifies the Select Committee of his objections to the disclosure of such information as provided in paragraph (2), such committee may decide, by majority vote, to disclose such information or not to disclose such information. If within 3 days of the committee vote, 5 or more members of the Select Committee file a request with the chairman that the decision be referred to the Senate for consideration, such information shall not thereafter be publicly disclosed without leave of the Senate.

"(4), whenever the Select Committee refers the matter to the Senate under paragraph (3), the chairman shall, not later than the first day on which the Senate is in session following the day on which the request is filed, report the matter to the Senate for its consideration."

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. This amendment would modify section 8 of Senate Resolution 400 so that the new Intelligence Committee would have greater discretion over the release of sensitive information.

May we have order in the Chamber, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ABOUREZK. Section 8, as it now stands, would encroach upon congressional prerogatives and skew the balance of powers. This amendment corrects this imbalance in favor of the Executive by permitting the committee, by majority vote, to disclose or to keep confidential, information to whose disclosure the President objects. Once the committee makes its decision, five or more members of the committee may appeal the vote, by directing the chairman to refer the question of disclosure to the full Senate for resolution.

Section 8(b) (3) provides that if the President properly notifies the committee of his objections to the disclosure of information, the committee "may, by majority vote, refer the question of the disclosure of such information to the Senate for consideration." If the question is referred, the information may not be publicly disclosed without leave of the Senate. The principal problem with this provision is that it is ambiguous: it provides that the committee "may" refer the question to the Senate. What happens if it does not? May it decide on its own, by majority vote, to disclose information? Is referral to the Senate the only procedure by which information can be disclosed, or is it only the procedure to be followed when the committee feels that the issue is so controversial that it requires consideration by the full body?

I fear that the reading intended by the drafters is that referral to the Senate is the only procedure by which information can be disclosed. If that is so, adoption of the provision will have momentous consequences. Do we even know what those consequences are? I think we will be creating two dangerous precedents.

For the first time the executive branch classification system will be applied to Congress. The classification system was not established by an act of Congress. It was promulgated without consultation with, or approval of, Congress by a series of Presidents in executive orders that properly apply to members of the executive branch. My enacting legislation that recognizes the application of the classification system to Congress, we could surrender our independent power to classify or declassify sensitive information. And once this procedure is adopted for the new intelligence committee, what will prevent the President from requiring that every Senate committee adopt the same procedure for use of sensitive information? If the Foreign Relations Committee had been subject to this procedure, we might never have known the contents of the Sinai accords that were published by the committee over executive protest. Are the members of committees, such as Foreign Relations, Appropriations, and Armed Services prepared to sacrifice to Presidential prerogative the independence they have to negotiate questions of disclosure of sensitive information? Are the Members aware of the precedent that this procedure sets for every committee of Congress?

The classification system is both abused and overused. It is estimated that there are well over 100 million pages of classified records and that over 3,000 officials have top secret classification authority. Former Supreme Court Justice Arthur Goldberg has said:

Seventy-five percent of classified documents should never have been classified in the first place, another 15 percent quickly outlive the need for secrecy; and only about 10 percent genuinely require restricted access over any significant period of time.

Do we want to ratify this system inadvertently, without devoting to it the attention it deserves? The distinguished senior Senator from Maine (Mr. MUSKIE) has already devoted considerable time to remedying the problem of executive overclassification. We should not undercut his efforts by acting hastily today.

Second, one reading of the ambiguous provision would establish a formal procedure for Presidential veto of committee actions. This, I believe, is the most devastating provision of the resolution. We abdicate our legislative responsibilities and destroy the doctrine of separation of powers if we permit the President to control decisions that are properly within the scope of the legislative function. Do we wish to establish such a precedent, one which robs the Senate of its freedom to operate, through this unprecedented involvement by the President in the day-to-day operations of a Senate committee? Suppose, for example, that President Nixon had had such a power over the Watergate committee. Would we ever have learned what was discovered through that committee's inquiries? Should we ever permit a President to hold such power? And is it not an unconstitutional delegation of authority for us to legislate such a usurpation of power.

There is absolutely no need to institute a provision like this. The two branches of Government ought to be able to accommodate conflicting policies through cooperative negotiation. The Church committee itself is a fine example of how the executive and legislative branches can come to a solution if each side respects and trusts the legitimate demands of the other. Why should we establish formal procedures that abolish proper Senate prerogatives when we are able to operate effectively with our own procedures?

Rather than fostering cooperation, institution of such a formal procedure would provide incentive for the President not to negotiate with the committee. Simply by making the required certification he removes the decision from the committee and moves the controversy to the Senate. I can only presume that the drafters of the compromise have more confidence in the judgment of the President than they do in the judgment of their own colleagues who will serve on the new committee. I would have thought that a hard-working committee that is well acquainted with the issues before it could be trusted to make responsible decisions as to what information could be disclosed without endangering the Nation. Instead, the new committee will be saddled with formal procedures for declassifying information buttressed by sanctions in contrast to the President who is free to declassify in an ad hoc manner as it suits his political needs.

While I recognize the concerns which lead to the inclusion of this provision, this procedure is the wrong remedy. The procedure is ostensibly directed to the problem of declassification of information by Senate committees, but the real concern behind it is the leaking of sensitive information by individual members. Therefore, a procedure to preclude the committee's release of information is simply not a remedy for the problem that prompts it.

What is more, it is not clear that the problem of leaking of sensitive information by individual members is really the pernicious problem it is made out to be. The administration has engineered a public relations campaign designed to show that sensitive information in possession of the executive branch is always protected, but always leaks in the hands

of Congress. This campaign has met with success primarily because leaks by the executive branch go by different names: written leaks are "declassifications," verbal leaks are "blackgrounders."

Examples of self-serving executive department leaks abound. It is well known that Pentagon officials reveal classified information about new weapons systems, particularly at budget time, in order to obtain public and congressional support for them. And a few months ago it was revealed that the Henry Kissinger who excoriated the Pike committee for leaking information unflattering to himself was the source of the classified information Edward R. F. Sheehan used in an article in Foreign Policy that was complimentary to the Secretary of State.

The Senate must also face the issue whether as a policy matter it wants the full body continually to turn its attention to the daily affairs of the committee. Such a situation necessarily envisions the prospect of the full Senate making decisions about matters on which it is not informed because of the difficulty of keeping the full body apprised of the details of the issues, and because of the restrictions that section 8(c)(2) of the compromise imposes upon communication between Members of the Senate. Under that provision no Member of the Senate who is in receipt of sensitive information from a member of the committee is permitted to communicate the information to a fellow Members. This restriction can only have a chilling effect on full and robust discussion of profoundly important issues. Aside from the constitutional considerations, we should be reluctant to place obligations upon the full Senate that it is prevented from fulfilling in a responsible fashion.

Moreover, this continual resort to the full Senate for decision on matters formerly reserved for committee determination undercuts the entire committee system. It is only the first assault upon the integrity of Senate committees when we suggest that they are not to be entrusted to carry out fully the duties that we have delegated to them.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, is there a copy of the amendment at the desk we could have?

The PRESIDING OFFICER. The Senator will be supplied with a copy of the amendment.

Mr. CANNON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. Mr. President, I understand that a request has been made by Senators SYMINGTON and STENNIS, and other Senators that no time limitation be placed on the present bill.

I think that I should explain the situation to the Senate so that it is aware of the situation which confronts us at this time.

The Senator from Mississippi and his associates are in the process of preparing an amendment—perhaps they have done so already—which, if I understand it correctly, seeks to keep all the segments of the military intelligence community within the Committee on Armed Services.

I had hoped that we could finish this resolution tonight, but because of the amendment offered by the distinguished Senator from South Dakota, which might take some time and which, in my opinion, goes contrary to the compromise, and the amendment which will be suggested by the Senator from Mississippi (Mr. STENNIS), and his associates, that will not be possible.

However, in talking to the Senator from Mississippi earlier, he indicated that it might be possible to vote on his amendment Monday or Tuesday, because he needs time to develop some of the intricacies connected with the amendment itself.

So, in spite of the suggestion which was conveyed to me by the ranking Member of the Committee on Rules and Administration, I am going to make a unanimous-consent request at this time, because time is running out on this body. There will be an awful lot of legislation on the calendar next Monday because of the budget set May 15 date. There will be a convention for which the Democrats will take off about 3 weeks in July, including the Fourth of July, to attend. There will be a 2-week convention for the Republicans in August. There will be a Labor Day recess of brief duration in September, and there will be an election in November. In the meantime, if the Senate does not complete its work by October 2, we will stay in at least until October 10, and if we cannot complete it then, we will go out and come back, after the election, to finish the peoples' business.

So I am not trying to scare anyone, but I am trying to lay out exactly what we have before us and will have in the way of legislative responsibility.

We have nothing we can take up, if we do not continue with this resolution today, tomorrow, or Monday.

So, Mr. President, it is my intention to go over until Monday at the conclusion of business today, but in order to give some assurance to the Senate that this matter will not be summarily thrown aside, but that we will face up to our responsibilities within a reasonable length of time—I think it is unreasonable to be honest about it—I ask unanimous consent that debate on Senate Resolution 400 be limited as follows: Six hours on the resolution, 1 hour on each amendment, and 4 hours on the Stennis amendment, with time to be equally divided and controlled in the usual manner; that the vote on final passage occur not later than 5 p.m. on Tuesday next; and that this request be made under the usual rule.

Mr. CANNON. Mr. President, reserving the right to object and I shall object subject to the following conditions——

Mr. MANSFIELD. I yield.

Mr. CANNON. The amendment that is now pending is obviously a very controversial amendment. This relates to the question of secrecy and whether we are going to disclose secrets that may best be kept undisclosed in the interest of the United States.

We will have considerable discussion on this amendment, and if at the conclusion my motion to table is not agreed to, then I would not be in a position to agree to any unanimous consent request with respect to this particular amendment. I have no problem with the remainder of the provisions.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. CANNON. I yield.

Mr. MANSFIELD. It is my intention to support the Senator's motion to table, because I do not think that this amendment has any place in this compromise, which a lot of us worked awfully hard to achieve and to bring about the greatest degree of unanimity therein.

So I wish to assure the Senator and the Senate that I will vote in support of the Senator's motion to table because we have other things to do, and I want to see something done which will bring about a change in the situation affecting the intelligence community which has been ignored by too many in this Chamber for too long.

Mr. RIBICOFF. Mr. President, will the majority leader yield?

Mr. MANSFIELD. I yield.

Mr. RIBICOFF. The amendment by the distinguished Senator from South Dakota is taken practically verbatim from the original proposal of the Committee on Government Operations. It was one of the main items that was involved in the compromise worked out by representatives of the Committee on Government Operations and the Committee on Rules and Administration. We do believe that we have protected the rights of the Senate by assuring that rule XXXV still will be applicable so that any two Senators would have the opportunity of bringing to a closed session of the Senate any differences with the President of the United States over the disclosure of information. The Senate then in closed session would have an opportunity of making its will known.

Mr. MANSFIELD. Mr. President, will the Senator yield right there?

Mr. RIBICOFF. I am pleased to yield to the majority leader.

Mr. MANSFIELD. And that was discussed by the combination that considered the substitute offered by the Senator from Nevada which is now before us.

Mr. RIBICOFF. That is absolutely correct. It was cleared with, we thought, almost every element involved in this entire problem, including Senator CHURCH, with whom I was in constant contact during his absence from the Senate.

I would be reluctant to see the Cannon substitute in jeopardy. I would oppose the distinguished Senator from Mississippi, because that, too, would invade the compromise. Consequently, I will support the distinguished Senator from Nevada and vote with him to table the Abourezk amendment.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. PERCY. I have a similar comment, for the identical reasons, but also because I think the amendment of the Senator from South Dakota would really destroy the relationship of cooperation that must be established between the intelligence community and Congress. I certainly would support the tabling motion of the Senator from Nevada.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. SYMINGTON. Mr. President, I have not taken part in this debate, but many years ago we had the Kennedy letter. The reason for the Kennedy letter, to the best of my knowledge, was that the Central Intelligence Agency was bypassing the Ambassador. That situation was corrected by the Director of the Central Intelligence Agency at the time, Mr. John McCone.

Then we had the extraordinary situation in which the Kennedy letter resulted in an ambassador directing a war; he would call up Saigon to tell them what to bomb and what not to bomb, and he did it through the Central Intelligence Agency.

I have been the only Member of the Senate for some 16 years who has been a member of both the Committee on Armed Services and the Committee on Foreign Relations. For years I have urged that the Committee on Foreign Relations have some representation on the committee responsible for Central Intelligence Agency oversight. However, the three chairmen of the Armed Services committee since I have been in the Senate all have been senior members of the Committee on Appropriations; therefore, to the best of my knowledge there never has been any real supervision of the Central Intelligence Agency.

It was Senator Fulbright, I believe, who on the floor of the Senate asked the distinguished chairman of the Committee on Appropriations, one who presumably knew all about the Central Intelligence Agency, "Do you know what they do with the money?" His answer was, "No, and I don't want to."

That is not how to oversee this Government agency.

Many suggestions have been made. In my opinion there should be a joint committee composed of members of the Committee on Foreign Relations and the Committee on Armed Services, with alternating chairmen every few years, so that if one chairman would not want to look at a situation, presumbaly the other would.

This is the only case I know of in which the Committee on Appropriations does everything. It regulates, it decides, it appropriates, and it says, in effect, "It is none of your business what we are doing with the taxpayers' money." I do not go for that. There are members of the Committee on Armed Services who know at least as much, if not more, about intelligence than do the members of the Appropriations Committee.

Also, this is not a military agency. People seem to forget that fact. This is a civilian agency.

I was in the executive branch, working with Secretary Forrestal and the President's counsel, Clark Clifford, when this act was written. Secretary Forrestal himself stated—and he was very friendly to the military—that the reason for the CIA was to provide the people of the United States a brake on the military description of the threat. That Agency should always remain independent of the military.

Some kind of reorganization is going on in the executive branch today which worries me, because it seems they are beginning to pull the CIA somewhat closer to the military.

Ninety-five percent of the work of the Central Intelligence Agency today has to do with countries with which we are not at war. Think of that. All over the world, we have agents who are reporting to the ambassadors. When they report to the ambassadors, the ambassadors report to the State Department. When they come back here with the reports, they do not go to the Committee on Foreign Relations; they go to the Committee on Armed Services, which knows little, if anything, about the conditions of the country in question.

I ask Senators whether they know of a more absurd setup from the standpoint of structure and function. And unfortunately it has resulted in the loss of a great deal of money and in the loss of many lives. I can say that without reservation, as a member of both those committees and as a member of the Committee on Appropriations, where as an ad hoc member I see what they want me to see; but I am not allowed to look at the decisions of the Committee on Appropriations with respect to the Central Intelligence Agency.

This setup, Mr. President, is no good. We should have the same type of congressional supervision of this agency as we have of every other agency. Here the President asks one Member of the Senate or one Member of the House to come up to the White House, and then says to the press, "I have discussed this matter with Congress." It does not add up; and that is the reason why, in my opinion, we are in this trouble today.

One final point the Central Intelligence Agency oversight subcommittee of the Committee on Armed Services, on which I have had the privilege to serve for many years, in a recent year did not meet even once. How can we supervise anything if we never meet?

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. SYMINGTON. I yield.

Mr. MANSFIELD. Mr. President, I have the floor. I will yield to the Senator from South Dakota next.

It has been all shadow so far as the oversight of the CIA has been concerned.

Mr. SYMINGTON. That is right.

Mr. MANSFIELD. There has been no substance.

I came to the Senate with the Senator from Missouri in 1953. We are going out together next year. When I was in the House before that, I tried to bring about, through legislation, the establishment of a joint committee to oversee the CIA. Why? To protect the CIA. If it were unjustly accused, it would have a haven. If it were not unjustly accused, then an explanation would be forthcoming.

I believe that the way we have been operating has been a crying shame. Here, for the first time, we have a chance to do something constructive. There have been 15 months of hearings. What do they mean to Senators? Have Senators read the reports? Have they even read the newspapers? Are they going to allow this lack of supervision to continue? I hope not.

I yield to the Senator from South Dakota, briefly.

Mr. TAFT. Mr. President, a parliamentary inquiry. What is the pending item?

The PRESIDING OFFICER. A unanimous-consent request is outstanding, proposed by the distinguished majority leader.

Is there objection to the unanimous-consent request?

Mr. TAFT. Mr. President, reserving the right to object——

Mr. ABOUREZK. Mr. President, reserving the right to object, I do not want to let 2 or 3 minutes pass without objection to the announcement by the distinguished majority leader, the distinguished chairman of the Committee on Rules and Administration, and the distinguished Senator from Illinois that the Abourezk amendment is outside some compromise that a great many Members of the Senate, including myself, did not sit in on.

Mr. MANSFIELD. There were many other Members who did not sit in on it, but we could not bring in all 100, so do not feel too bad about it.

Mr. ABOUREZK. I do not feel bad about it. I just do not want the majority leader to imply that there is some unanimous-consent agreement not to accept any amendments in order to defeat this amendment. I want to respond very briefly, if I may, Mr. President.

Mr. MANSFIELD. The Senator may, but the Senator has misquoted me.

Mr. ABOUREZK. I shall be happy to correct that misquote.

Mr. MANSFIELD. Well, the record will speak for itself. I did not say that there should be no amendments offered, because amendments have been offered and have been accepted.

Mr. ABOUREZK. At any rate, the impression was given by the majority leader that this amendment was outside of some strange agreement that a lot of us did not sit in on, including myself.

Mr. President, this particular section of the bill, compromise or no compromise, does one thing. That is, it compromises the power of the U.S. Senate to the President. If there was one thing that the 18 months of hearings brought out, it was that the anger of the country is directed toward Congress, and toward Washington in general, because, over all of those months and the years preceding them, we did not fulfill our responsibility to the people who elected us to the U.S. Senate. Instead we handed over too much of our power to the President, especially to President Nixon.

We are seeking by voluntary action to do the same thing today, by giving the President the power to regulate our

schedule, our agenda, and to regulate what is to be disclosed and not disclosed.

Mr. President, if I may, I want to read the existing language of section 8(b)(3):

> If the President notifies the select committee of his objections to the disclosure of such information as provided in paragraph (2), such committee may, by majority vote, refer the question of the disclosure of such information to the Senate for consideration. Such information shall not thereafter be publicly disclosed without leave of the Senate.

The folly of this language can be illustrated by the example of the Pike committee report. The Pike committee itself, which knew the contents of that report, voted to disclose the report publicly. By a parliamentary maneuver, it was brought to the floor of the House, and the Members who had not read the report and did not know the contents of it, voted, under pressure by the Executive to withhold the report from the public.

The amendment that I am offering precisely addresses this problem. It will allow the Intelligence Committee, which ought to know its business and ought to know the contents of the information and ought to know what is in the interest of the United States, to vote one way or the other, to disclose or withhold. There is a procedure in the amendment to allow any five members of the committee to refer the vote in the committee, whichever way it goes, to the full body of the Senate. That means that the Senate itself decides what its schedule will be and what its agenda will be, and not the President of the United States.

How many times have we seen the President exerting pressure upon Congress to withhold information? How many times has the executive put out news stories and wrongly attacked Congress for leaks and unauthorized disclosures of information? How much longer are we going to stand for it? This is the question I am asking.

Mr. CANNON. Mr. President, will the Senator yield to me?

Mr. MANSFIELD. Yes, I yield.

Mr. CANNON. Mr. President, reserving the right to object, and I shall object in a moment and make a motion to table the Abourezk amendment, I say to the majority leader that if the motion to lay on the table carries, I shall then have no objection to proceeding.

Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CANNON. Mr. President, I move to table the Abourezk amendment.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ABOUREZK. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. ABOUREZK. Is there a time agreement on this amendment?

The PRESIDING OFFICER. There is not. And the motion to table shuts off debate.

Is there a sufficient second for the yeas and nays? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from South Dakota. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from California (Mr. TUNNEY), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from New Hampshire (Mr. DURKIN) is absent on official business.

Mr. GRIFFITH. I announce that the Senator from Tennessee (Mr. BAKER), and the Senator from Hawaii (Mr. FONG) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. HRUSKA) is absent on official business.

I further announce that, if present and voting, the Senator from Nebraska (Mr. HRUSKA), would vote yea.

The result was announced—yeas 77, nays 13, as follows:

[Rollcall Vote No. 177 Leg.]

YEAS—77

Allen	Griffin	Pastore
Bartlett	Hansen	Pearson
Beall	Hart, Gary	Pell
Bellmon	Hartke	Percy
Bentsen	Haskell	Randolph
Biden	Hatfield	Ribicoff
Brock	Hathaway	Roth
Buckley	Helms	Schweiker
Bumpers	Hollings	Scott, Hugh
Burdick	Huddleston	Scott,
Byrd, Harry F., Jr.	Humphrey	William L.
Byrd, Robert C.	Jackson	Sparkman
Cannon	Javits	Stafford
Chiles	Johnston	Stennis
Church	Laxalt	Stevens
Cranston	Long	Stevenson
Curtis	Magnuson	Stone
Dole	Mansfield	Symington
Domenici	Mathias	Taft
Eastland	McClure	Talmadge
Fannin	McGee	Thurmond
Ford	McIntyre	Tower
Garn	Mondale	Weicker
Glenn	Morgan	Williams
Goldwater	Moss	Young
Gravel	Nunn	
	Packwood	

NAYS—13

Abourezk	Culver	Muskie
Bayh	Hart, Philip A.	Nelson
Brooke	Kennedy	Proxmire
Case	Leahy	
Clark	Metcalf	

NOT VOTING—10

Baker	Hruska	Montoya
Durkin	Inouye	Tunney
Eagleton	McClellan	
Fong	McGovern	

So the motion to lay on the table was agreed to.

UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. Mr. President, I ask unanimous consent again that debate on Senate Resolution 400 be limited as follows: 6 hours on the resolution, 1 hour on each amendment, 4 hours on the Tower amendment, time equally divided and controlled in the usual manner and under the usual rule; and that the vote on passage occur not later than 5 p.m. on Tuesday next.

The PRESIDING OFFICER. Is there objection?

Mr. TAFT. Mr. President, reserving the right to object, I do not know of anything that has got the people in my State more upset than this entire intelligence matter, and I firmly believe we need some legislation on it.

At the time of the Angola affair I went into this in some detail to find what actually had gone on so far as consultation with regard to providing of funds for that particular operation.

Frankly, I was unable to find out anything other than the fact that there is statutory authority for making it, but as to who was consulted, or whether anybody was, or, really, any procedures for consultation, I do not know.

Before the Armed Services Committee this morning, I asked Deputy Secretary Robert Ellsworth if he knew of any procedure for consultation anywhere in the Senate resolution or iny any written document anywhere. He assured me he did not.

So it is very apparent we do need some institutionalization on this problem.

At the same time, I must say I feel that it would be a great mistake for the Senate at this point to go ahead and agree to the manner of handling this particular bill next week without at least taking the weekend to think about it.

I call to the attention of the Senate that this is the final action we will be taking to vote on this bill. There is no matter of this bill going to the House to be acted upon. There is no conference committee. There is no referral to the White House. There is no time to correct any mistakes we might make. Therefore, I think it calls for a degree of caution on our part in acting upon this particular legislation.

I have reviewed the legislation in great detail. One thing that many Members of the Senate do not know, for instance, is that Deputy Secretary of Defense Ellsworth appeared before the Armed Services Committee this morning and testified in a closed session. I have asked to make his testimony public. The chairman has agreed, as I understand it, that it will be made public. It goes directly and vitally to some of the issues before us. I think the Senate, before it agrees to act on this measure, or agrees as to how long it will take to act on it, should have the benefit of that testimony, which I hope to get approved by Mr. Ellsworth to make sure there is not anything classified in it, and get it into the RECORD for the benefit of the Members of the Senate.

This is the first time I have seen this compromise measure, which is quite different from some of the other proposals that have been considered, and I have been keeping up on the matter.

I testified before the Rules Committee with regard to the proposals before it. The first time I saw this proposal was when I read it in the CONGRESSIONAL RECORD delivered to my house early this morning.

I do not think the Senate has had sufficient time to look at the many items involved in this particular piece of legislation. Some members of the committee may feel that they do, in their confidence, but I cannot say I do. I do not wish to see myself, or any other

Senators who might feel the same way, tied in a straitjacket procedure by entering into a unanimous-consent agreement at this time and, for that reason, I object.

Mr. MANSFIELD. May I say I am delighted that the Ellsworth testimony will be made public. I wish more testimony before the Armed Services Committee and other committees would be made public. The more I see of how things operate around this Chamber the more I become enamored of the Chiles-Stone sunshine bill. I would hope that rather than have these subterfuges of executive hearings, and I have attended more than my share of them at which very little of any importance is really discussed or disclosed, we would have more open hearings. I would hope also that in that respect there would be more consideration given to proposals seeking to achieve that end.

I yield to the Senator from Mississippi. Will the Senator yield first?

Mr. STENNIS. Yes.

Mr. MANSFIELD. I would repeat my request just for the record and make it the same except that the vote on final passage occur not later than 5 p.m. on Wednesday next.

The PRESIDING OFFICER. Is there objection?

Mr. TAFT. Mr. President, for the same reasons I have indicated, I would feel constrained to object, if that were insisted upon. I would withhold objecting if other Members wish to be heard.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. The Senator objects. I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, if the Senate will indulge me just a very few minutes since discussion has been had about diligence, let me assure the membership that just as soon as we knew the final form of what is now called the Cannon compromise, or the compromise—and Senator CANNON was very kind to give me a copy of it as early as he could—we had just finished up a military authorization bill with our sessions continuing over several weeks. I immediately started a staff study of the Cannon compromise that day. That was yesterday.

We had a meeting this morning of our committee. We went into this matter as much as we could.

I do not want to cause undue delay, or any kind of delay, but I have felt compelled, along with the Senator from Texas, who is a member of the committee, to offer some amendments to get into the very heart of this discussion. My experience makes me believe that any kind of an effort, so broad and so far-reaching as this matter, will have to have the coordination and participation of the House of Representatives. Having been to many, many conferences on money matters. I know it is just absolutely impossible to have an effective way of going into these vast problems—and they are great—without participation by the House of Representatives. I am afraid otherwise this effort will fall on its face somewhere during the first year. I want at least debate that point.

The requirement in the compromise for an authorization for all intelligence is something that I believe every Member of the Senate ought to be fairly certain he fully understands, with the complications and the chance that we would be taking. To really have the Senate enact an authorization bill through the ordinary processes, with the chances for disclosure—not just the leaks but also the inferences that will be built up from year to year by these foreign intelligence agents who are very perceptive—I think would be very, very harmful to our security. I want a chance to tell Senators that.

This amendment I have prepared, which will be presented by the Senator from Texas, does not attempt to touch the CIA. It does not attempt to touch it. This amendment is going to put squarely in issue the matter of jurisdiction over military intelligence. CIA is partly military. But the amendment will refer to those things which are primarily and fundamentally military. This amendment draws a line and presents to the Senate the chance to pass on that matter.

I do not want to speak at length, but I wanted to say those things. Criticism has been made, and I do not blame anyone. I thought we could get through this thing by Tuesday, but there is no committee report on the resolution as it is now. The chairman and the committee have done fine work, as they always do, on the subject matter.

The interpretation of a great deal of this is difficult. The idea of trying to operate by amending the Senate rules but saying we are not amending the Senate rules is beyond my conception. That is what this proposal does, with all due respect.

I thought we could debate those points by Tuesday, but others do not believe so.

We will find a way. This bill will be disposed of.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. STENNIS. I will yield in a moment.

I do not think anyone is trying to get by with something. There are other views to be expressed here which have not been expressed.

I would yield to the Senator from Kentucky, but I do not have the floor. The Senator from Montana has it.

Mr. MANSFIELD. I yield.

Mr. HUDDLESTON. I want to make one comment. The amendment which the Senator will introduce will be discussed at length at the appropriate time.

But I wanted to refer to one comment the Senator from Mississippi made regarding his concern about this new committee taking jurisdiction away from the Committee on Armed Services relating to tactical military intelligence. I recognize that some of the language in the resolution is broad, but on page 21 of the substitute there is a definition which indicates that intelligence activities as used in the resolution does not include tactical foreign military intelligence serving no national policymaking function. Military intelligence is that intelligence used by military commanders. That intelligence, under the Department of Defense, relating to military affairs, is not national intelligence, in the sense we were addressing.

So I simply make that point at this time and, of course, as I say, we will address the total amendment when it is presented.

Mr. STENNIS. We can turn to that.

If I may respond briefly, Mr. President, we find here the words "authorizations for appropriations both direct and indirect"—I do not know what an "indirect appropriation" is. But it is for the following, "Defense Intelligence Agency," the "National Security Agency," and so forth. There are also others that are connected with the Department of Defense. So there is that kind of evidence there. I do not see how we can draw a clear line between the different kinds, but it is as to that that the amendment seeks to draw the issue.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. STENNIS. I yield to the Senator from Missouri.

Mr. SYMINGTON. I will ask my able chairman: What in your view is the difference between the intelligence of Central Intelligence Agency and military intelligence?

Mr. STENNIS. Central Intelligence is the broader activity, I say to the Senator. A great deal of its activity is concerned with military matters. But it is a purely civilian agency, and it has a great many activities, as the Senator knows.

But we are not invading that field, simply for practical reasons, in this amendment.

Mr. SYMINGTON. Mr. President, let me note that it was Secretary Forrestal who, back in 1947, felt that there would be no limit to the military budget if the threat was described solely by the military to Congress and the people; and to me the Central Intelligence Agency has always acted as a brake on the things that were needed by the three services and their advocates. If we get the Central Intelligence Agency over on one side and military intelligence on the other, I think we defeat the very purpose of having the Central Intelligence Agency as a civilian agency to balance the military.

I do not see how we possibly can split the all-civilian intelligence review from the military, and vice versa.

What I would hope we could do before we get through is to have the Committee on Foreign Relations and the Committee on Armed Services jointly review national intelligence in all its ramifications.

I hope we would end up by doing that because, if we give the military military intelligence, that would include the Defense Intelligence Agency, the National Security Agency, the Office of Naval Intelligence, Army Intelligence, Air Force Intelligence, and other agencies; and they are the ones that receive billions of dollars more than the Central Intelligence Agency; and because of their parochial appeal to various segments of the economy have tremendous pull when they come up to obtain their money.

I think what we have to do, as I have

mentioned, is have the Committee on Foreign Relations join with the Committee on Armed Services in looking into the whole question of intelligence, particularly inasmuch as 95 percent of our intelligence in peacetime has to do with foreign relations as against military operations.

So, I would hope that we do not separate these functions into two different committees and two different categories. It is all related intelligence for the same country. I feel very strongly about this, having been involved in it for 31 years.

Mr. THURMOND and Mr. TOWER addressed the Chair.

Mr. MANSFIELD. I yield to the Senator from Texas.

Mr. TOWER. I defer to the ranking minority member of the committee.

Mr. MANSFIELD. I have the floor. Does the Senator want me to yield to him or the Senator from South Carolina?

Mr. TOWER. Yield to him instead of me.

Mr. THURMOND. I thank the Senator very much.

I was going to inquire of the Senator from Missouri. Through his long and capable experience as Secretary of the Air Force, as a member of both the Committee on Armed Services for many years and of the Committee on Foreign Relations, from this broad experience that he has had, is it his thinking that it might be preferable to consider a small committee, maybe, and have representatives from the Committee on Armed Services, say, from the majority and minority, to have the same number from the Committee on Foreign Relations, from the majority and the minority, have the same number from the Committee on the Judiciary, from the majority and the minority? That is six members. And then possibly have the majority leader and the minority leader. That makes eight members. Then in order not to have an even number, have the President pro tempore of the Senate. Would the Senator view a committee with that composition as possibly being in line with his thinking?

Mr. SYMINGTON. I will answer my able friend from South Carolina this way: That is far closer than anything else that has been suggested up to this time in this Chamber about what we do with our future intelligence.

I presume that, when you suggest the addition of members of the Committee on the Judiciary, the premise is that the FBI setup would be under the committee in question as well as the Central Intelligence Agency. Am I correct on that?

Mr. THURMOND. That is correct.

Mr. SYMINGTON. I would have no objection to that, and I would hope that we could work something out because, as is known, up until now we have not had an adequate review of our intelligence, and that is why we are in this jam today.

I would hope that the committee would be held to the lowest possible number commensurate with what is essential to do the job.

Mr. THURMOND. Is it not true that the more exposure we have the greater the jeopardy to the national security?

Mr. SYMINGTON. I would say that the American people have the right to be informed, and we have the duty to so inform them, on many matters relating to our country's security. Many national security matters must of course be protected.

On the other hand, there has been less disclosure about intelligence activities in the Senate than any other activities about which I know.

At one time, by request of Senator Russell, we had members of the Committee on Foreign Relations meeting with the Committee on Armed Services. I think that should now be made statutory; and I am confident that the members of the Committee on Foreign Relations will have the same high regard for the importance of not divulging secrets as do members of the Committee on Armed Services.

I do feel, however, that one of the reasons we have gotten into trouble in this area is that we have been so secret that the only people who really knew anything about the Central Intelligence Agency over a long period of years were the five senior members of a committee that is not a legislative committee, namely, the Committee on Appropriations.

Mr. THURMOND. Under this proposal that we have just discussed, where we would have a broad base of the Senate, we would have the majority and minority leader, and in addition, representatives from the three main committees affected.

Mr. PERCY. Four committees.

Mr. THURMOND. Not under the proposal that the Senator from Missouri was discussing.

And does the Senator from Missouri feel that that would be fair, practical, and a wise way to handle it, rather than have a committee composed of 17 or more members?

Mr. SYMINGTON. I could not agree more with the able Senator. I think that committee is much too large. We would go from 5 to 17 overnight.

Mr. THURMOND. I thank the able Senator from Missouri.

Mr. MANSFIELD. Mr. President, I point out that the Senate this afternoon reduced the number to 15 from 17. In talking about numbers, there are more than five on the Appropriations Committee and three to five on the Armed Services Committee, and one or two on the Committee on Foreign Relations. But this new way will be more democratic, more widespread, and I think more representative of the Senate. It certainly will give the younger Members a chance which they have not had up to this time.

Mr. SYMINGTON. Mr. President, will the Senator yield for a question?

Mr. MANSFIELD. I yield.

Mr. SYMINGTON. Will the Senator agree that the chairmanship of this subcommittee should alternate and there should be relative equality among the committees? Ninety-five percent of the work that is done in peacetime intelligence has to do with the Committee on Foreign Relations.

Mr. MANSFIELD. Yes, I agree. That could be up to the committee itself.

Mr. SYMINGTON. That is right.

Mr. MANSFIELD. But it could rotate, just as the members are going to have to rotate, because I believe the Senate this afternoon agreed to an 8-year term.

Mr. SYMINGTON. I appreciate that. I ask it because with respect to the intelligence budget, the Central Intelligence Agency receives between 17 and 20 percent of the total intelligence budget. So whatever we do with respect to the Central Intelligence Agency, there will be a tremendous amount more money spent on the military on this, regardless. On the other hand, I would like to see the Committee on Foreign Relations, based on my experience, have a position equal with that of any other committee when it comes to intelligence in peacetime.

Mr. MANSFIELD. It does, under this substitute.

Mr. SYMINGTON. I thank the majority leader.

Mr. MANSFIELD. Mr. President, I yield to the Senator from Texas.

Mr. TOWER. I thank the majority leader for yielding to me.

Mr. President, I think what we have done in Senate Resolution 400 is to overreact to the fact that we have discovered abuses in the activities principally of the CIA and the FBI. I am afraid that in so overreacting, we have created a Frankenstein monster that will come back to haunt us.

The abuses can be dealt with, without proliferating day-to-day access to sensitive information and activities. I believe that ultimately the result of the establishment of this committee, rather than working through the normal committee process, is going to be more inhibition on intelligence-gathering capability, more revelations of matters that for disclosure are inimical to the security of the United States; and this so-called compromise comes to us without any report, without any hearings, with very little chance for input on the part of those who have serious reservations about the concept of an omnibus oversight committee in the Senate.

The Committee on Armed Services, with as much dispatch as possible, has taken a look at this, and we find that there are serious objections to be raised. At least, some members of the committee find that serious objections can be raised to certain aspects of this resolution. We do not seek to gut the jurisdiction of the committee. We seek only to retain that which is essentially defense-related and defense-managed in the Armed Services Committee.

I am aware that the distinguished majority leader desires to act with dispatch on this measure, but there are those of us who feel strongly about it. The matter is so important that some time and effort should be given to considering the merits of what the distinguished chairman of the Armed Services Committee and the distinguished ranking minority member and some other members feel is a matter that should be given very careful consideration, indeed.

It is not our desire to delay, and I would be prepared to agree to a vote at a time certain.

I do feel that the Senator from Ohio made a very good point in raising h

objection. But all I ask for is careful consideration of what we are doing.

I honestly feel that the Defense Department would be somewhat hamstrung in the conduct of its business if this matter were placed in the hands of a general oversight committee and divorced from the committee of primary authorization and jurisdiction on defense matters, the Committee on Armed Services.

I hope that Members of the Senate will reflect carefully on what we have proposed here and that we can have statesmanlike debate on the matter when we return next week.

Mr. MANSFIELD. Mr. President, I appreciate the remarks of the distinguished Senator from Texas. I think they are moderate in vein and tone and worth every consideration. I am only unhappy that we have not been able to achieve a unanimous consent agreement to vote at a time certain on final passage.

The Senate should be notified that the pending business, Senate Resolution 400, will remain the pending business until disposed of one way or the other.

ORDER FOR ADJOURNMENT UNTIL MONDAY, MAY 17, 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. MANSFIELD. Mr. President, I send a cloture motion to the desk, and I do so reluctantly.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to close debate on the pending substitute amendment to S. Res. 400, a resolution to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes:

Robert C. Byrd, Walter F. Mondale, Mike Gravel, Claiborne Pell, Lowell P. Weicker, Jr., Abraham Ribicoff, Charles H. Percy, Jacob K. Javits, Mark O. Hatfield, William D. Hathaway, Lee Metcalf, Mike Mansfield, Charles McC. Mathias, Jr., Edward M. Kennedy, Stuart Symington, Hubert H. Humphrey, Frank E. Moss, Dale Bumpers, Gaylord Nelson, Gary Hart, Walter D. Huddleston, Wendell H. Ford, Alan Cranston, Clifford P. Case, Hugh Scott, John C. Culver, Thomas J. McIntyre, and Patrick J. Leahy.

TREASURY REPORT ON THE DISC

Mr. LONG. Mr. President, on April 13, the Secretary of the Treasury transmited to Congress a study on Domestic International Sales Corporations, DISC, which suggested that DISC stimulated U.S. exports by about $4.6 billion in 1974. That figure was subject to a number of qualifications described in chapter 5 of the annual report.

On May 3, Senators KENNEDY and HASKELL released a study by the Library of Congress which concluded that "the repeal of DISC does not appear to have major implications for either exports or the level of domestic employment." In their press release the Senators stated their belief that the Treasury's 1974 annual report was "a grossly misleading presentation of the economic data on DISC." The Treasury Department has responded with a memorandum of its own which challenges the methods and assumptions used by the Congressional Research Service in its critique of the Treasury study. I ask unanimous consent that the Treasury response to the Library of Congress study on DISC be incorporated in the RECORD after my remarks. (The Library of Congress study appears in the RECORD of May 3 at page S6323.)

The Treasury Department feels that its analysis of the export effects of DISC, which was carefully qualified in its report, is based on a sounder aproach than that of the Library of Congress. The Congressional Research Service adopted what economists call "price elasticity" approach in estimating the effects of DICS on employment and exports. That approach requires a great many assumptions about the functioning of international economics and key economic parameters, including price changes. There is a tendency on the parts of economists to assume an aura of scientific exactitude in their estimating. The area of price elasticities is so complex that the variety of estimates is only exceeded by the numer of scholars making them. In commenting on the use of estimates of demand elasticities, Professors Cave and Jones, the authors of a well-known text book on international economics, have this to say:

In proceeding from the theoretical elasticities to real-world measurements, the economist runs into many difficulties, which we can only hint at . . . How can the influence of changes in the terms of trade be filtered out when imports are affected by many disturbances, such as changes in employment levels and tariff rates? How does one allow for the varying periods of time people require to adjust their plans and purchases when the relative price of imports changes? Because of these and other problems, economists are reluctant to bet heavily on the predictive accuracy of the elasticities they have estimated.

As Treasury points out—

Despite these difficulties, the Congressional Research Service did no original research on the appropriate elasticity value, and instead considered only two "widely quoted" elasticity estimates, a low value of 1.51 and a high value of 2.85.

The Congressional Research Service was apparently unaware that elasticity estimates as high as five are also widely quoted. The Congressional Research Service's "best case" estimated that DISC generated $1.35 billion in additional exports.

The Treasury further states that—

The large downward biases inherent in the Congressional Research Service's best case parameters dramatically reduce the "best case" export estimate. Using reasonable "best case" parameters within the framework of its approach, the Congressional Research Service should have reached a "best case" estimate of the DISC effect of $8.5 billion rather than $1.35 billion for DISC year 1974. The $8.5 billion "best case" figure would be calculated as follows:

[Billions of dollars]

Actual total exports in DISC year 1974	$73.2
Estimated total U.S. exports in DISC year 1974 wtihout DISC	64.7
Estimated "best case" DISC effect	8.5

In short, proper application of the Congressional Research Service methodology would lead to estimates of the 1974 DISC year impact ranging between zero in the "worst case" and $8.5 billion in the "best case". Treasury questions the validity of the price elasticities appraoch for analyzing DISC. Equally important, the Treasury doubts that the Congressional Research Service "worst case"—"best case" approach, which does no more than suggest a range of estimates between zero and $8.5 billion, significantly contributes to the public debate on DISC.

Some of the misunderstanding of the impact of DISC may stem from a misconception of how DISC stimulates exports. Price is only one element in making U.S. exports more competitive. Proponents of DISC do not claim that it reduces prices. Export trade involves added expenses in selling and marketing abroad. DISC offsets some of these added expenses; enables U.S. exporters to extend better credit terms to foreign buyers; compensates for greater financial risks; provides positive cash flows and greater liquidity for financing sales; and furnishes funds for plant and equipment modernization and expansion.

Perhaps, most importantly DISC induces exporters to locate plants and facilities in the United States that would otherwise be established abroad. The original purpose of the DISC was to neutralize tax and foreign incentives to locate plants abroad. Testimony offered during the Senate Finance Committee hearings attested to the success of that purpose.

Robert Malott, for example, stated:

For FMC, DISC has also meant increasing investment in the U.S. in plants producing for exports. It was a major factor in our recent decision to invest in the U.S., rather than off-shore, about $100 million in three plants that we hope will export more than 50% of their production. In our special report on DISC you will find the comments that we received from the men on the front line of our export activity. I submit that their comments are persuasive testimony to the key role of DISC as an inducement to invest in America rather than go abroad.

It is this effect of DISC which most troubles our trading partners. Congressman JOSEPH KARTH, upon completion of his study of EC complaints on DISC at the GATT convention found:

That what the EC members and presumably other countries are worried about, is that the future of DISC hold such promise, that U.S. businesses will greatly increase their efforts to export more and more of their production . . . rather than our jobs. . . . This would, of course, result in U.S. multinationals providing fewer jobs in those countries than they desire or expect.

Mr. President, I have concluded that the Congressional Research Service's study is not as scientific and accurate as its authors pretend. In fact, I think it is downright misleading. Like anything else, the conclusions of "the science of economics" are only as good as the assumptions. One can go around and around juggling revenue loss figures with changes in the exports, in the way that both the Treasury and CRS studies do, without ever coming home to the heart of the matter. The option for a corporation which considers selling products to a foreign country is to either manufacture them in the United States or to manufacture them abroad. To the extent that DISC results in a higher rate of return for a corporation to manufacture domestically rather than abroad, its effect is to increase production, and, therefore, employment, at home. The Congressional Research Service, although it does not come to grips with this proposition, realizes that "DISC and their related suppliers typically earn a relatively higher profit margin on sales. The combined profit margin of about 17.3 percent apparently earned by DISC's is much higher than the combined profit margin of 8.4 percent estimated for manufacturing and distribution of goods in the domestic economy." It is this difference in rates of return which causes companies to concentrate on exporting from the United States.

We have had some interesting history with regard to Congressional Research Service's objective analyses. When the Finance Committee reported out a windfall profits tax in July of 1975 which was designed to meet the imminent prospect of oil decontrol, the Congressional Research Service, under the same lead author who wrote the DISC study, issued a widely publicized study of the impact of oil price decontrol on the consumer. The original study concluded that the first full year of price decontrol would involve a $26.7 billion cost to the consumer. Because the Finance Committee had doubts about the assumptions used in the windfall profits study, it asked the Congressional Research Service to recalculate its figures. Unfortunately, the revision by the Congressional Research Service was not widely circulated or publicized. However, it indicated that by using different assumptions which, in the words of CRS, were considered more reasonable, the cost of decontrol was $7.85 billion—not $26.7 billion.

A comparison of the original Congressional Research Service analysis and its revision are shown below.

[*In billions*]

	August 6 analysis	*Revision*
Crude oil	$16.3	$6.0
Natural gas	3.9	.6
Coal	3.6	.6
NGL	2.9	.65
Total	26.7	7.85

The Congressional Research Service explained the difference in results as follows:

These amounts are the annual cost of fuel increases to consumers in 1976, the first full year in which all decontrol impacts are felt. Quite obviously, removal of the $2.00 tariff and more reasonable assumptions as to impact of crude oil price increases on prices of related products results in a much more limited impact of decontrol. As shown under paragraph 5.1, there is an increase of 7.1 cents per gallon of typical refined product upon decontrol, using the assumptions of the Library of Congress Congressional Research Service in the August 6th analysis, and only a 2.6 cents a gallon increase in refined products under the assumptions in the Revision. (Calculations by Library of Congress CRS in both cases.)

The revised study spoke for itself: The assumptions of an economic study determine the conclusions; more reasonable assumptions result in more reasonable conclusions. I hope that before we get into the debate on DISC the Senators will have a chance to examine for themselves the objectivity of the various studies made on the impact on unemployment.

Mr. President, I ask unanimous consent to have printed in the RECORD a Treasury response to the study.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
Washington, D.C., May 7, 1976.

Hon. RUSSELL B. LONG,
Chairman, Finance Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On Monday, May 3, 1976, there appeared in the Congressional Record, at S. 6323, a joint statement of Senators Kennedy and Haskell releasing a Library of Congress study of the DISC provisions of the Internal Revenue Code. I am deeply concerned with this statement because it accuses the Treasury Department of a "grossly misleading presentation of the economic data on DISC" in its 1974 Annual Report, and impugns the credibility of the Treasury and its professional staff. These accusations have no basis in fact, and do not serve the cause of rational public debate.

The 1974 Annual Report clearly and accurately presents the data which will make possible a rational debate on the merits of the DISC provisions. The major purpose of the Report is to provide data which will enable readers to make their own determinations concerning the merits of DISC. Most of the Report presents statistical tables and background explanation.

Chapter 5 of the Report represents an attempt by the Treasury Department to analyze the impact of DISC on exports and employment. This analysis was made in response to inquiries from members of the Senate and the House. Chapter 5 contains a clear statement that the estimates must be viewed with extreme caution. The statistical procedures are spelled out in the text and tables, and Chapter 5 emphasizes that other statistical methods and assumptions might produce different estimates.

The Congressional Research Service of the Library of Congress has relied on the statistics, the analysis, and the qualifications of the Treasury Report in preparing it own study. The Congressional Research Service employed different methods and assumptions to estimate the impact of DISC on exports. It is therefore not surprising that the Congressional Reseace Service reached different results than the Treasury. What is surprising is the unsupported assertion of the Congressional Research Service that the Treasury estimates "cannot be viewed as a measure of the impact of the DISC provision on the total value of U.S. exports." Even more surprising is the Congressional Reseace Service's embrace of an estimating approach which, in the Service's own words, depends on "extremely uncertain" parameters.

There is enclosed for your information a Treasury staff memorandum contrasting the approaches used by the Congressional Research Service and the Treasury. The Congressional Research Service analysis relies on the price elasticities approach which, depending upon the assumptions made, can produce a range of estimates of the DISC effect on exports of between zero and $8.5 billion. This range is so large that the estimates can serve little useful purpose in a public debate over DISC. Moreover, as the memorandum points out, the price elasticities approach analyzes the DISC export effect solely in terms of an effect on prices. DISC was never intended to operate by lowering prices. There is no quantitative evidence that DISC has affected export prices. The purpose of DISC is to focus the attention of U.S. firms on exports and to provide a tax deferred source of capital for use in the export business.

The Treasury analysis of the export effect of DISC is based on a careful comparison of the actual export experience of firms with DICSs and firms without DISC's. This approach suggests that DISC stimulated U.S. exports by about $4.6 billion in DISC year 1974, subject to the qualifications stressed in Chapter 5 of the Report. The Congressional Research Service has challenged certain statistical procedures used by the Treasury. While reasonable analysts might differ on some of the procedures, the Treasury believes that its methods are defensible for the reasons explained in the enclosed memorandum.

I believe that a careful reading of the enclosed memorandum will further demonstrate that the repeal or reduction of DISC benefits would adversely affect exports and export-related jobs.

I am sending a similar letter to Senator Curtis, with copies to Senators Kennedy and Haskell.

Sincerely yours,

CHARLES M. WALKER,
Assistant Secretary

Enclosure.

THE TREASURY REPORT AND THE LIBRARY OF CONGRESS STUDY OF DISC

Senators Kennedy and Haskell recently released a Library of Congress study of DISC.[1] In their accompanying press release, the Senators accuse the Treasury's 1974 Annual Report[2] of containing a "grossly misleading presentation of the economic data on DISC." In other ways, the Senators impugn the credibility of the Treasury and its professional staff. These accustations have no basis in fact, and do not serve the cause of rational public debate. The Treasury Department believes that its Report clearly and accurately sets forth the data. The Treasury further believes that its analysis of the export effect of DISC, which was carefully qualified in the Report, is based on a sounder approach than that adopted by the Library of Congress.

When DISC was enacted in 1971, Congress directed the Treasury to prepare an annual report on its operation and effect. In fulfilling this request, the Treasury has prepared three annual reports. The Treasury has devoted more effort to these annual reports than to any other evaluation of a special purpose tax measure. The 1974 Annual Report is a carefully prepared study which represents months of statistical tabulation and analysis. The Report is authored by experienced international tax economists and law-

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[1] Library of Congress, Congressional Research Service, *The Domestic International Sales Corporation (DISC) Provision and Its Effect and Unemployment: A Background Report,* May 3, 1976.

[2] Department of the Treasury, *The Operation and Effect of the Domestic International Sales Corporation Legislation: 1974 Annual Report,* April 1976.

ferred to the Committee on Interior and Insular Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The Senate continued with the consideration of the resolution (S. Res. 400) to establish a Standing Committee of the Senate on intelligence activities, and for other purposes.

AMENDMENT NO. 1647, AS MODIFIED

Mr. TAFT. Mr. President, I call up my amendment No. 1647, and I send a modification to the desk.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. TAFT) proposes an amendment (No. 1647), as modified.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 8, lines 13 and 14, delete the term "for public dissemination".

On page 8, line 17, delete all after the period and delete all of line 18.

On page 8, line 22, before the period insert "or the amount of funds authorized to be appropriated for intelligence activities."

The PRESIDING OFFICER. May the Chair ask the Senator, is this the amendment which has the time limitation of 2 hours?

Mr. TAFT. Mr. President, this is not the amendment that I referred to in the consent agreement for 2 hours. It is merely a 1-hour amendment.

The PRESIDING OFFICER. Who yields time?

Mr. TAFT. Mr. President, I yield myself such time as I may consume.

Mr. President, first of all, let me say with regard to this entire measure that I have very serious reservations about it. I am glad that we are going to dispose of it. In delaying action on it last week, I did so because I thought that while the Senate ought to act on it, while I think we need some type of an institutionalization of the reporting process of our intelligence agencies, the one we have today being either nonexistent or at least wholly inadequate in my opinion, nevertheless the approach that was taken by the substitute which is before us at this time, amendment No. 1643, should be of great concern to all Members of the Senate. I am not sure whether I am going to vote for it or not. I am going to listen to the debate with interest and observe what happens with regard to the amendments before making up my mind whether I will support it or not.

I think it raises questions as to our security insofar as intelligence operations are concerned which give me serious pause.

The fact that we are going to have 15 Members of the Senate, and still the same reporting or some other reporting procedure on the House side, means that a few more people are going to be privy to the information than has been true in the past, which is, I think, a very serious question.

I also believe there are very serious questions relating to the provisions of this bill which go toward the reports that the select committee is directed to make. In that regard, I want to go over some of the specific provisions in the substitute amendment with the Senate.

I am certain that there is no Senator who wants to see abuses of power or authority in or by any arm of the Government, and the control of abuse in intelligence matters is properly a function of the Congress which we should not avoid. But we must exercise control in a careful and deliberate manner to insure that our oversight activities do not undermine effective intelligence operations, to the advantage of our adversaries.

We have seen around the world too many cases where national security is used as a justification for domestic repression. Equally, we see cases where foreign intelligence services of various States, especially the Soviet Union, engage in practices on foreign soil that violate the rights and sovereignty of other States. We cannot and should not view any of these practices with equanimity or approval.

At the same time, I would hope that there is no member of this body who is not aware of the vital national need for adequate and accurate foreign intelligence. Our international opponents, particularly the Soviet Union, are closed societies. They do not publicize their capabilities or their intentions. I think the question of intentions is particularly acute for this country. We know that the ideology of the Soviet Union calls for the spread of communism worldwide. What we do not know is how seriously that ideology is taken, in terms of policy plans. We cannot obtain such knowledge without using covert intelligence collection; yet without it, how can we establish a policy toward the Soviet Union other than one based on general mistrust and suspicion of Soviet intentions?

This is, of course, only one example of the need for intelligence, but at a time when we are hotly debating the merits of détente, it is a timely example.

There are, Mr. President, many aspects to the problem of how to exercise adequate oversight over the intelligence community so as to prevent potential abuses, while at the same time not imparing our vital intelligence gathering capability.

In this respect, I see a number of ways in which amendment No. 1643 to Senate Resolution 400 may be improved. My amendment No. 1647 seeks to avoid one of the potential problems created by the resolution by prohibiting the public dissemination of annual reports required under section 4(B) of the substitute amendment. My colleagues will recall that the section 4(B) presently reads:

(B) The Select Committee shall obtain an annual report from the director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation for public dissemination. Such reports shall review the intelligence activities of the Agency or Department concerned and the intelligence activities of foreign countries directed at the United States or its interests. An unclassified version of each report shall be made available to the public by the Select Committee. Nothing herin shall be construed as requiring the disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the sources of information on which such reports are based.

Mr. President, last week after this substitute had appeared on the scene, the Armed Services Committee, under Chairman STENNIS, called the Deputy Secretary of Defense, Mr. Robert Ellsworth, before that committee to testify on this subject. Secretary Ellsworth's testimony is now printed and available for study and we are making copies available to any Senators here today who would like to read that testimony.

I was concerned in this hearing about the effects of section 4(b) on foreign intelligence sources because of the requirement of annual public disclosure. In response to my questions about the effects of the section, Mr. Ellsworth had a good deal to say. I want to read specifically from some of his testimony before the committee just last week with reference to this particular section, section 4(b), appearing on page 8 of the bill.

Mr. President, at that time, I asked as follows:

Senator TAFT. I would like to ask Secretary Ellsworth, in section 4(b) is a provision that:

"The select committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation for public dissemination. Such reports shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interests. An unclassified version of each report shall be made available to the public by the select committee. Nothing herein shall be construed as requiring the disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the sources of information."

And so forth.

What in your opinion would be the effects on foreign intelligence sources to us of it being known that there will annually be such a report made public?

Mr. ELLSWORTH. I think that the effect of that report would be to apprise foreign nations of the extent of our familiarity with their operations against us, and would assist them in perfecting and strengthening their operations against us.

That appears on page 11 of the transcript.

On page 13, a question was asked by Senator STENNIS, the chairman of the committee:

Now, Mr. Secretary, are there any other points that you can think of? And I want you to answer questions here by our Chief of Staff, too. But make your points further.

Mr. ELLSWORTH. The only other point. Mr. Chairman, is a personal point that comes out of what some of my friends, for example, in the academic community have been saying for a couple of years, before I came into the Defense Department, to the effect that it is logical, if we are going to spend that amount of money on intelligence, to have a coherent, unitary budget for that, and logical therefore to give the jurisdiction for authorizing that budget and for overseeing its performance, and so forth and so on, into a separate

committee in the Congress. They use words like logical and coherent. But I want to stress again that notwithstanding the appeal of logic and coherence, the fact of the matter is that in real life this is going to give us tremendous problems in our responsibilities as far as the Defense Department is concerned, first of all, because naturally when you get things into a coherent, unitary picture in the intelligence field, foreign intelligence specialists and analysis—the analysts who work for foreign powers—are not so dumb that they can't figure out on the basis of a year-to-year comparison basis what is going on in our intelligence collection effort on more effective and efficient basis than they are today.

The CHAIRMAN. You mean intelligence from foreign nations?

Mr. ELLSWORTH. That is right. A foreign analyst analyzing our program is going to have a tremendous edge when he can look at our unitary defense overall intelligence budget and compare it from year to year and put it together with other bits of information that he has assembled on the worldwide basis. It is going to be a tremendous help to him with his problem, figuring out what we are doing and how he can counter it.

That is one problem.

Another problem is a reflection of the point you yourself made, Mr. Chairman, and that is if the Senate has this process, it is just going to mean double accounting, it is going to mean double automation, and double staffing as far as we are concerned in presenting our budget to the two bodies.

So those are our points.

Senator THURMOND then asked the following question:

I might ask you this. Have you any thoughts or recommendations on the way you think intelligence might be handled by the Congress to provide the greatest protection to the Government?

Mr. ELLSWORTH. Well, I would think—and speaking again for Secretary Rumsfeld—that it would be desirable as well as—it certainly would be desirable from the standpoint of the public confidence and support in intelligence operations, and completely acceptable to us, there could be either in the one body, or in the other, or both, or on a joint basis, an oversight committee which would have an exercise a rigorous oversight function over the various intelligence activities of the Government, which would not imply involving itself in these other problems which I have mentioned; that is to say, the administrative problems and the unitary budget presentaiton problem which I have mentioned.

And it seems to me that that would be something that could be and would be beneficial to everybody in the Government and to everybody in the intelligence community, because of the fact that it would improve and increase, presumably, the public's confidence, and therefore support, for necessary information-gathering functions.

Then, continuing on, Senator THURMOND asked the following question:

I believe Mr. Colby said he would welcome a small joint committee on the matter of surveillance. There would be no objection to that, as I see it. As the chairman mentioned, a joint committee would save intelligence officials from making so many appearances. They have to appear before the Armed Services and Appropriations Committees of the Senate, and the Armed Services and Appropriations Committees of the House. If you had a joint committee of both Houses, they could make one appearance instead of four.

And so forth. But I think the general impact of the testimony here by Mr. Ellsworth makes it perfectly clear that there is a real danger, even on an unclassified basis, in making these annual reports to the public, reports that the committee is not even given the discretion of releasing or not.

I point out that the committee, if it is set up under this substitute amendment, could release information if it decided it wanted to do so in the public interest, but it would be mandated by the language of this section 4(b) to go ahead annually with an unclassified version of the report, and it would be required also to have this report, and I think to have it become public property, in effect, unless some matter in it were specifically classified; and I question whether it would be possible to segregate out the unclassified portion and have the report mean anything so far as the public is concerned; or, on the other hand, not face the alternative Secretary Ellsworth talked of, of providing a pattern of information as to how our intelligence gathering is proceeding and what kind of authorization we are giving to it.

My amendment would take out the requirement that such reports be made public, and take out the requirement that the unclassified version be made available to the public by the select committee, and this modification, which was added today, would also add at the end of section 4(b) the words "or the amount of funds authorized to be appropriated for intelligence activities," which is an attempt to help meet the last objection of which Secretary Ellsworth was speaking.

Mr. President, I urge the passage of the amendment, and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Mr. President, let me respond briefly to the distinguished Senator from Ohio:

The part of the section that the Senator seeks to have stricken was put in the bill by the Senator from Tennessee (Mr. BROCK). We have sent for Mr. BROCK, and would like to have him here before we take further action.

Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time for the quorum call not be charged to either side.

The PRESIDING OFFICER. Is there objection?

Mr. PERCY. Mr. President, before we go into a quorum call, I should like to respond.

The PRESIDING OFFICER. Does the Senator from Connecticut withdraw his request?

Mr. RIBICOFF. I withdraw my request.

Mr. PERCY. Mr. President, I would like to reserve final judgment until Senator BROCK has taken the floor, but my initial reaction to the amendment of the Senator from Ohio (Mr. TAFT) is a favorable one. I really cannot imagine what value a report for public dissemination would really have. I am concerned that it might actually be misleading.

Certainly to have a report from the intelligence community to the committee on its activities would be highly valuable. It would be comprehensive in scope, and could be a useful document. Obviously the committee has available to it procedures, as provided for in the resolution, for public dissemination of such information in that report as it feels is desirable and would not be contrary to the interests of the intelligence community in the United States. The resolution it w[illegible] provide for coordination of release [illegible] the executive branch of the Government. But it does seem to me there is value in the amendment being offered. I would like to wait to hear a final argument by the author of this particular section, Senator BROCK, because I feel he should have that privilege; but my initial reaction to the amendment is favorable.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time consumed by the quorum call not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I ask unanimous consent that the pending amendment may be set aside temporarily in order that I might call up an amendment which the managers of the bill have agreed to accept, and which I believe we can dispose of in about a minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ALLEN. I call up my amendm[illegible] which is at the desk, and ask for its [illegible] mediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN), from himself, Mr. PERCY, and Mr. CANNON, proposes an amendment to amendment No. 1643, as follows:

On page 8, line 21 between the words "or" and "the" add the following: "the divulging of intelligence methods employed or"

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I yield myself such time as I may use.

Mr. President, the resolution calls for the select committee to obtain an annual report from the Director of Central Intelligence, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. It provides also that:

Nothing herein shall be construed as requiring the disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the sources of information on which such reports are based.

The language of the resolution does not cover the leaving out of the report the matter of divulging intelligence methods employed.

Without an amendment, it could be construed that all that could be wit[illegible] held from the report would be the m[illegible] ters listed in section 4(b) of the re[illegible] lution, that is, that the report did not

have to include the names of the individuals engaged in intelligence activities for the United States, or the sources of information on which such reports are [redacted]d.

This amendment would add a third bit of information that would not have to be disclosed, and that would be the intelligence methods employed by the agencies. Otherwise, if they were required to disclose the intelligence methods employed, the methods, of course, would be made available to adversaries and would become common knowledge. All the amendment does is to provide that, in addition to not disclosing the names of the individuals carrying on intelligence activities, or the sources of information, they should not be required to give information as to their methods of operation.

So the manager of the bill, the distinguished Senator from Illinois (Mr. PERCY), and the distinguished chairman of the Committee on Rules and Administration (Mr. CANNON) have approved the amendment, and I hope that the Senate will accept the amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Mr. President, as the manager of the bill, the amendment offered by the distinguished Senator from Alabama is acceptable.

Mr. PERCY. Mr. President, speaking on behalf of the minority I know of no objection on this side and certainly the amendment is acceptable to the Senator from Illinois. Just looking at a technical point——

[redacted]Mr. ALLEN. I wish to touch that.

Mr. PERCY. Have the two "ors" been eliminated?

Mr. ALLEN. Yes.

Mr. PERCY. Fine.

I have no further comment.

The PRESIDING OFFICER. The amendment was agreed to.

Mr. RIBICOFF. Mr. President, May I have the attention of the distinguished Senator from Ohio?

I have just noted that the distinguished Senator from Ohio changed the printed amendment 1647:

On page 8, line 22, before the period, insert the following: "or the amount of funds authorized to be appropriated for intelligence activities."

What concerns me is that, while it is not the intention of the resolution to require that the amounts appropriated be made public, yet there is provision in the legislation providing that, under rule XXXV, any two Senators in a closed session, could debate the question of the amount of funds. The Senate then by majority vote could make the decision to make public the amount appropriated. This would be the Senate's decision in that case. What concerns me is that the additional language might foreclose the Senate itself by majority vote in making public the amount of the appropriation. This is what concerns me.

Mr. TAFT. Mr. President, if the Senator will yield on that point, I do not [redacted]hink the Senator's fears would be justi[redacted]ed here.

The additional clause that would be added at the end of that sentence on line 22 would still be governed entirely by the language in line 19. The language in line 19 says that "nothing herein shall be construed as requiring the disclosure in such reports of * * *", and then referring to the language I added, "the amount of funds authorized to be appropriated for intelligence activities." In other words, it would relate only to a requirement that it be disclosed. If the committee decided it wanted to disclose it, or if the Senate overruling the committee decided it wanted to disclose the amount of funds authorized to be appropriated, it could do so and there would be nothing in the language that would prevent it. I would like to go on to say, however, that this is the very point on which Secretary Ellsworth was, I think, abundantly clear. He made the point that the disclosure of the authorization of appropriations was very likely to be helpful to possible adversaries in interpreting our intelligence activities.

So I think a specific indication that there is no authorization or no requirement that such a disclosure be made would be desirable at this point. It is only that.

Mr. RIBICOFF. Will the Senator agree that it is not his intention, and he does not interpret the language to foreclose, the Senate after meeting in executive session to vote by majority vote to disclose the amount of authorization?

Mr. TAFT. I certainly take that interpretation, again saying I would hope, if the Senate ever gets to that point, it would take a very careful look at it because of the danger I have just outlined.

Mr. RIBICOFF. But we do have to have faith and trust in the Senate as a whole to make the decision and not to foreclose the Senate from making it.

Mr. TAFT. There is no question about it. As I indicated, I do not think the language forecloses the committee from making the disclosure if it decided it wanted to do so. I think it would be unwise to do so, but if it wanted to do so, it could do so under the language of the amendment.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time allotted to the quorum call not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEALL). Without objection, it is so ordered.

Mr. ALLEN. Mr. President, will the Senator from Ohio yield me about 5 minutes on the amendment?

Mr. TAFT. How much time do I have remaining on the amendment, Mr. President?

The PRESIDING OFFICER. The Senator from Ohio has 15 minutes remaining.

Mr. TAFT. I yield 5 minutes to the distinguised Senator from Alabama.

Mr. ALLEN. I thank the Senator.

Mr. President, I support the amendment offered by the distinguished Senator from Ohio.

The resolution calls for the annual report that the committee obtains from the intelligence agencies to be obtained for public dissemination and would seem to contemplate that possibly it could be classified and unclassified information, from the language of the resolution; because farther down in the section it says that an unclassified version of each report shall be made available to the public by the select committee.

Obviously, there is no need, then, for the first phrase that the distinguished Senator from Ohio is seeking to strike, to eliminate the "for public dissemination" of the annual report.

So the report can be obtained; but what the first phase of the Senator's amendment does is to eliminate the "for public dissemination." That would leave, then, the unclassified version being made available to the public by the select committee.

The second phase of the amendment would strike that out, because the committee has authority, under other sections, to divulge information, if it sees fit to do so, subject to an appeal to the Senate. So a method is provided, without this sentence, for this disclosure of information.

Further, the sentence which the Senator seeks to delete provides that it shall be made available, which is directory and mandatory; and by eliminating this sentence, it would be discretionary with the committee to take the necessary steps to divulge the information. So that sentence is not needed.

Also, the third phase of the amendment provides that this section shall not be construed as requiring a report on the amount of the appropriation to the intelligence agency. Obviously, a disclosure of the amount of the appropriation would give much valuable information to adversaries as to the extent of our intelligence activities.

The colloquy that just occurred between the distinguished Senator from Connecticut (Mr. RIBICOFF) and the distinguished Senator from Ohio (Mr. TAFT) indicates that if the committee wished to divulge this information, it could do so if it were allowed to do so by the Senate.

So the amendment in all three of its aspects, it seems to me, is a constructive amendment, and I hope it will be agreed to by the Senate.

I yield back the remainder of the time allotted to me.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time consumed by the quorum not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROCK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I yield such time as he may require to the distinguished Senator from Tennessee.

Mr. BROCK. I thank the Senator from Connecticut.

Mr. President, I should like to discuss the proposed amendment with the Senator from Ohio and be sure that we are on the same track.

I wish to explain, first of all, the purpose of the language as it was inserted by me in the committee. What we hoped to obtain by this language was at least, on an annual basis, some sort of general overview of our intelligence operations to be made available to the American people so that they could understand the need for maintenance of a basic intelligence capability.

I understand what the Senator is trying to do. I just want to be certain that it leaves us the opportunity to present to the American people, in a completely unclassified sense, a report on why we need an FBI, a CIA, and so forth. I think most people know, but I am not sure that we are reminded of it in a tangible fashion, on a regular basis. Those two agencies particularly have come under massive assault in recent months—for some valid reasons on occasion, but generally the assault has exceeded the crime, in my opinion.

I think we have done a great deal of damage to our capacity for national security. In that sense, then, I was hoping that this report would afford the agencies an opportunity to present their side of the case to the American people and to justify the foundation for their actions, not only with regard to their basic intelligence activities, but with regard to the intelligence activities directed against the interest of this country and its people. That was the purpose of the language.

I am not so sure that the language is perfect. I certainly have no pride of authorship in it. But I do think it is important that we provide an opportunity for the American people to see just what threats are being raised against this country and what we are trying to do to deal with those threats.

Mr. TAFT. I yield myself 2 minutes.

Mr. President, I appreciate the position taken by the Senator from Tennessee. Basically, I do not think I have any real disagreement with him. It does seem to me that the public should have from the select committee and from Congress a general indication as to the need for our intelligence activities. The difficulty I have is in going into a formal report of them and setting out exactly what we are doing anywhere. As Secretary Ellsworth pointed out in the testimony I referred to earlier, there is a substantial danger that adversaries, looking at that information, may be able to detect major intelligence activities.

I did go on and read another part of this report of the same hearings before the Committee on Armed Services. I shall ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

I cite the question raised by Senator NUNN, to which Secretary Ellsworth replied later by a letter at the end of the testimony. Senator NUNN pointed out that, for instance, with the *Glomar Explorer,* the U–2, and other similar situations, the nature and size of those very activities could show a bulge in intelligence activities that might be of some use to those who are making a constant analysis of any information they can get as to what we are doing in the intelligence agencies. I do not disagree with the Senator at all. The committee, if it decides to do so, can make available general information if it becomes convinced that it is not going to be detrimental from the point of view I am concerned with.

I tell the Senator one thing: The American people are deeply concerned with the whole problem of intelligence. They are deeply concerned with the abuses that have been described by the committee that the Senator from Minnesota was talking about earlier. They are even more concerned about the possibility that some of this information that is classified or information that can be of use to those who are our adversaries in the international intelligence community might become available to them. The American people are in an uproar about that. Everywhere I go, people are concerned about it. They want to see Congress do something to try to tighten up this entire area. I hope the legislation that we pass eventually will have that effect. I do not want anything counterproductive to that in the language here. I had the feeling, reading this language in the bill, that it might be so interpreted.

Mr. BROCK. The President has expressed a concern, and I share it. I am disgusted, frankly, with some of the machinations with regard to this investigation. There clearly were abuses; they must be cleared up, But, there clearly have been excesses in reporting those abuses. I think that is a tragedy for Congress and for the American people. I want no part of that kind of action.

What I am reaching for, and may be the Senator can help me find a better way to do it, is an opportunity for these agencies to demonstrate to the American people in some fashion why we need an intelligence capability. I should like for them to have an opportunity to present their side of the case. That is all I am reaching for. If the Senator finds the words, "for public dissemination" on line 13 excessive or unnecessary, then, that is fine to strike that.

I am not trying to give the committee an opportunity to make a report on why we need an agency; I am trying to get the agencies a chance to present their case. What I am asking is that the committee get the full report and that an unclassified summary or synopsis be made available so that we can at least make some judgment as to protecting that national interest.

Maybe that is not necessary, but I do not know how else to do it, I say to my colleague from Ohio. I know that he and I seek exactly the same objectives with regard to this total bill. We are not in disagreement.

Mr. TAFT. I reply to the Senator by saying that with the amendment I [redacted] proposing, we still would have langu[redacted] under which reports would be made by the various agencies involved and going for a review of the intelligence activities or department concerned and intelligence activities of foreign countries directed at the United States. It would take out "for public dissemination" and would leave that entirely up to the committee or the Senate.

As I discussed earlier with the distinguished chairman of the committee, the Senator from Connecticut, there is nothing in the language of the amendment that would prevent the committee or prevent the Senate, either with the committee or without the committee, from going ahead and making public such aspects of any reports from the various departments that they think it is desirable to make public. I do not intend to cut off that right at all. In fact, I think it would be a mistake to cut it off.

Mr. BROCK. But by striking the language, I think—let us just talk about some future Senate with some future, different composition. Reading the legislative history in which we simply strike the language on lines 17 and 18, the second part of the amendment, it would read that the committee could write its own report or could not issue any report at all. I almost would rather, if the Senator wants to allow them the privilege of passing on this report—because I think this is a passthrough thing. I do [redacted] not want it completely rewritten [redacted] turned around by the committee. I think the agencies ought to have the right to present their own case.

I wonder if the Senator would allow me to keep lines 17 and 18 and, instead of the word "shall," write "may." That would allow the committee to release it, but that still leaves the decision with the committee. It still implies that they are releasing a report which came to them and not writing their own.

Mr. TAFT. I do not think I would have any objection to that. I think that would leave it optional to the committee still and not mandatory. I must say, however, that I would rather expect, from any knowledge I have of the intelligence agencies involved, that the last thing in the world they are going to want done is to have a copy of their reports made public.

Mr. BROCK. It may be. It is quite possible that the committee would agree with that and say no report at all.

You see, there is not any reason for this whole paragraph on page 8, subparagraph b, without the report, though, because the rest of the bill deals with requiring the CIA and the FBI to come before the committee and testify as to what they are doing and why. We might be better off just to eliminate the whole paragraph, because that annual report is part and parcel of the whole bill. If the Senator wants to do that, fine.

Alternatively, we could strike the word "shall" and substitute "may" and leave [redacted] to the discretion of the committee.

I think the Senator can see what I

am reaching for. I am a little reluctant to deny these agencies an opportunity for presentation of their own case to the American people at large without——

Mr. TAFT. I can understand the Senator's feeling. The only thing I would say about it is if there is a report of that kind made, I think it ought to come from the President of the United States to the people of the United States, anyway.

Mr. RIBICOFF. Will the Senator yield?

Mr. TAFT. Yes.

Mr. RIBICOFF. I wonder if we could reconcile the differences in emphasis here? If on line 17, we struck the word "shall" and substituted "may" and on line 18, after the word "public," "at the discretion of" the select committee, would that satisfy the Senator from Tennessee and the Senator from Ohio?

Mr. BROCK. It would be all right with me.

Mr. TAFT. I think that would satisfy our need in what we have here. Mr. President, I move to modify the amendment by deleting lines 3 and 4 of the amendment and on page 8, line 17 that the word "shall" be stricken, and that the word "may" be substituted for it; and in line 18 after the word "public" strike the word "by" and insert the words "at the discretion of."

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Mr. RIBICOFF. Another question arises, if I may have the attention of the distinguished Senator from Ohio, on line 19, page 8, after the word "the" and the word "disclosure" insert the word "public" because we have now added the question of methods of gathering information and the amount of authorization. While this information should not be made public by Senate Resolution 400, we should not deprive the select committee of the information.

Mr. TAFT. I think that suggestion is proper, and I agree to that modification.

Mr. RIBICOFF. I wonder if the Senator would modify it to insert the word "public" at that point?

Mr. TAFT. Mr. President, I move to modify the amendment to insert the word "public" in line 19 before the word "disclosure."

The PRESIDING OFFICER. The amendment is so modified.

The modifications are as follows:

Delete lines 3 and 4 of the amendment (No. 1647).

On page 8, line 17 strike "shall" and insert in lieu thereof "may".

On page 8, line 18 strike "by" and insert in lieu thereof "at the discretion of".

On page 8, line 19, after "the" insert "public".

Mr. RIBICOFF. Mr. President, under these circumstances the amendment of the distinguished Senator from Ohio, as modified, is acceptable by the manager of the bill.

Mr. PERCY. Mr. President, I should like to commend both the Senator from Ohio and the Senator from Tennessee, who originally wrote this section, for further clarification of its intent and purpose.

The Senator from Illinois is delighted to learn the objective is exactly the same, and I think the compromise language that has been worked out with the manager of the bill is entirely acceptable.

Mr. BROCK. Mr. President, may I say that I too appreciate the efforts of the Senator from Ohio. I think we have an absolutely common purpose in this debate, and I appreciate his pointing out the possible dangers as the wording was originally. I could not more thoroughly agree with his concern about the releasing of any classified material that would damage our security and our intelligence activities. I appreciate the fact that he brought it up, and I shall support the amendment, as modified.

Mr. TAFT. I thank the Senator.

Mr. President, I am ready to yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. RIBICOFF. I yield back the remainder of our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Ohio.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TAFT and Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise in opposition to Senate Resolution 400——

The PRESIDING OFFICER. Who yields time to the Senator from South Carolina?

Mr. RIBICOFF. The Senator is in opposition.

Mr. THURMOND. I yield myself 10 minutes.

The PRESIDING OFFICER. The time being under the control of the minority leader or his designee, the Senator from South Carolina is recognized for 10 minutes.

Mr. THURMOND. Mr. President, I rise in opposition to Senate Resolution 400 and the proposed substitute amendment which would establish a committee of 15 members plus the minority and majority leaders.

Mr. President, my opposition to this substitute revolves around a number of issues. As each member of this body realises, this substitute constitutes an entirely new bill and poses far-reaching ramifications. This legislation was not written in the Government Operations Committee and has not had the benefit of hearings.

Once again we are witnessing an effort to push through the Senate highly significant legislation without the benefit of the views of the executive departments involved, or the President of the United States. While this bill deals with the responsibilities of the Senate, it impacts on the responsibility of the President, who is charged with management of the intelligence agencies.

Obviously, the Senators who wrote this legislation are attempting to do what they consider best for this country. But I feel if other Senators were brought into the legislative process in the calm of a committee hearing and markup, we could come up with better legislation.

Therefore, it would be my hope the Senate would recommit Senate Resolution 400, as amended, to the Government Operations Committee with the requirement it come back to the floor in about 30 days. Otherwise, we will be asked to approve a very important bill which most of us had not even seen before last Thursday.

Now moving to the issue of the Select Committee on Intelligence Activities, I would like to make three or four points:

First, it is my view this step by the Senate will result in disclosure of sensitive information relative to our intelligence activities. This may not come as a result of disclosure by any particular Senator, but when highly sensitive intelligence is handled by such a large committee and responsibility is shared with many other committees, it is much more difficult to protect classified data. Furthermore, if this bill is adopted I would estimate 50 to 60 staff people will be privy to the most sensitive matters of our Goverment. The Soviets must be laughing at us and the rest of the world looking on with shocked amazement.

The Senate must realize that by passage of the proposed substitute we are moving toward a vast proliferation of sensitive data. In my opinion, it will lead to our Nation becoming No. 2 as to the effectiveness of its intelligence gathering apparatus.

As presently written, the substitute amendment requires notification prior to any significant activities. This obviously refers to covert operations. If this had been in effect during the Vietnam war it would have required notification to the Senate of highly sensitive military intelligence operations such as the mining of Haiphong Harbor, the Son Tay Prison raid, and the *Mayaguez* rescue effort, prior to execution. Any leak, however inadvertent or unintended, would endanger the lives of the personnel carrying out such operations.

Our foreign intelligence agents are already shaken by the murder in Athens, Greece, of an agent whose name was published by enemies of the Central Intelligence Agency.

Furthermore, by putting intelligence funds under the authority of a large select committee, the size of our intelligence budget will become public knowledge as the annual authorization of the budget proceeds through the legislative process. This means our enemies will be able to assess our intelligence efforts by evaluating changes in increases and decreases of funding for our intelligence agencies.

Finally, on the subject of disclosures, this committee will be vested with the authority to reveal to the public, after a vote of the full Senate, the most sensitive information provided by the Director

of Central Intelligence. This means congressional control over the Agency will be so powerful it would virtually become an arm of Congress rather than an arm of the Commander-in-Chief.

Another undesirable aspect of this provision provides authorization to the select committee to reveal to any other committee any matter which the select committee determines requires such attention. This approach is a step toward proliferation of vital information, whereas the real need is to concentrate oversight in a smaller portion of the membership, such as a subcommittee.

Mr. President, my second point would be that separation of the intelligence oversight from the defense committees will weaken the intelligence agencies, as well as the defense committees. On this subject I offer the following points:

First. Defense decisions are predicated on foreign intelligence. Our strategic forces are formulated on meeting the threat. The threat is evaluated for us by the intelligence agencies.

Second. Defense funding and intelligence funding overlap. This is illustrated by the example of military pilots flying military aircraft on intelligence missions.

Third. The quality of intelligence is a legitimate area of concern for the Defense Committees, if they are to provide properly for our national defense. Quality cannot be assured without control by the responsible defense committees.

In conclusion, Mr. President, I would favor strengthened oversight through a permanent subcommittee with highly qualified staffs in the four defense committees.

If it is the will of the Senate to provide oversight through a select committee, we should at least hold hearings on any such proposal.

Mr. President, I ask unanimous consent to have printed in the RECORD pages 3 through 26 of testimony from the hearing before the Committee on Armed Services.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF FLOYD M. RIDDICK, RETIRED PARLIAMENTARIAN OF THE U.S. SENATE

Mr. RIDDICK. Mr. Chairman, I think we have changed the resolution considerably from what the Government Operations Committee did, as far as protection of information is concerned, and also as far as giving the Appropriations Committee its present status as it had previously. We managed to salvage yesterday a compromise, section 12, which reads as follows:

"Subject to the Standing Rules of the Senate, no funds shall be appropriated for any fiscal year" et cetera, just as Mr. Braswell said. But this clause, "Subject to the Standing Rules of the Senate," retains rule 16 as it exists now. So that the Appropriations Committee can come in with funds not only in a continuing resolution, but in any resolution, or any other committee can make a motion, which after one day's reference to the Appropriations Committee could be brought up on the floor to provide funds for a new item not authorized, or to increase an item above authorization that is in the bill. So you retain to the Appropriations Committee now, if this is retained as is, the existing authority it has now to bring in funds for any purpose not authorized, not subject to a point of order.

I think that is a very significant point. For example, if you wanted to hire a group to do some spy work in Cuba and there was no legislative authorization for it, and you wanted them to go in on a submarine, you could just put an item for an intelligence activity in South America, for $500 million, or whatever you wanted, and no authorization would be necessary under this proviso.

Senator SYMINGTON. But then you bypass the supervisory commtiee, the regulatory committee.

Mr. RIDDICK. Senator, that is not the intent of this appropriation.

Senator SYMINGTON. I know it is not the intent, but it is what has been going on for 25 years, and it is one of the chief reasons we are in this mess.

Mr. RIDDICK. What the Authorization Committee can do is to come in with legislation that would say, no funds shall be spent, which would give them authority that we now have under this legislative authorization authority. The only thing is, as the conference was agreed upon, if this committee acted to take negative action against a certain activity, it certainly would not be expected that the Appropriations Committee would come in unless there was an extreme crisis, and define what the legislative authorization committee had done.

The CHAIRMAN. Let me ask a question right there.

If you had this proposal for this activity in South America, you would have to disclose it right there if you have the authorization, you might say, from the floor in the method that you describe?

Mr. RIDDICK. That is true. But there are other aspects in there, Senator, that are going to be more exposing than this. For example, the proviso which reads here:

"On or before March 15 of each year, the select committee shall submit to the Committee on the Budget of the Senate the views and estimates described in section 301(c) of the Congressional Budget Act of 1974, regarding matters within the jurisdiction of the select committee."

So the select committee has to submit its information to the Budget Committee just like any other committee, which, if they want to, can expose the details of what they are proposing.

The CHAIRMAN. Yes. But that increases rather than takes care of the problem as some of us see it at least about unnecessary or undue disclosure.

Mr. RIDDICK. The way this substitute tightens up on the flow of information is that it prohibits any member of the select committee from exposing any of the information submitted to the select committee until the committee votes.

Now, if it is lawfully classified information, then they must, before the information can be released, submit a report to the Senate in closed session, which the Senate will debate in closed session, as opposed to the way this committee decides whether information of that nature is to be exposed. And if the Senate says yes, it will be exposed, and if the Senate says no, it will not be exposed.

The CHAIRMAN. We especially appreciate your being here.

I will now call on Mr. Ellsworth to discuss further some matters already touched on.

Now, the general situation. Mr. Ellsworth, is that we want to know your analysis. You represent the executive branch that is going to have to deal with whatever is done.

I am glad you arrived Senator Hart. We are just having a roundrobin table discussion on this whole matter.

STATEMENT OF HON. ROBERT ELLSWORTH, DEPUTY SECRETARY OF DEFENSE

Mr. ELLSWORTH. Thank you, Mr. Chairman. And I do speak for the Secretary on this matter.

First of all, he understands, and so do I, and fully respect the responsibilities and prerogatives of the Senate to organize its various committees and their jurisdictions in whatever way the Senate sees fit.

But this proposal to create authorization for appropriations jurisdiction in a new Senate committee does give the Secretary some concern as far as our ability to charge our responsibilities in the Defense Department is concerned. And principally those concerns are two as far as we are concerned.

We operate our intelligence responsibility in a somewhat different world from the CIA or the FBI. We operate in an extremely, highly technological world, which with our facilities, is very sensitive and very delicate. And that is the basis for our first concern from the standpoint of maintaining the overall confidentiality of our sensitive and expensive military and defense intelligence sources and methods—and you know what I mean, particularly our most modern collection systems—the visibility that is created by a separate budget formulation process would entail, as we see it, grave risks. That is our first concern about the creation of a committee with the authorization for appropriations jurisdiction over these matters.

And then in addition, our Department would still be required, should the Senate create this new committee, to maintain a budget formulation process for the House of Representatives which would continue to conform to an appropriation account. And those two separate processes would require double accounting, and would require additional expense, and additional staff, and additional automation equipment. So that we would hope that the Senate in its wisdom would not create this additional committee having additional authorization for appropriations jurisdiction over these intelligence matters.

Senator HART. Mr. Chairman, is the Secretary going to come back and tell us what these grave risks are? He just leaves the phrase hanging there and I wonder if he is prepared to tell us what these risks are?

The CHAIRMAN. I do not know. We can take it up with him a little later. I invited him to come here just to put before the committee whatever he saw in this matter and what problems would be created.

Senator HART. I think the committee ought to know what the grave risks are, instead of just floating a phrase like that.

The CHAIRMAN. You will certainly have a chance to question him on it.

Senator TOWER. I might say that this is extremely sensitive, Mr. Chairman. I know what the risks are. It is extremely sensitive.

The CHAIRMAN. For the time being, as I understand it, we will pass it over and give you a right to examine him.

All right, Mr. Ambassador, go ahead.

Mr. ELLSWORTH. Those are my two points, Mr. Chairman, the points of the Secretary of Defense and myself.

The CHAIRMAN. When you refer to the budget of the Defense Intelligence Agency—you are talking about military intelligence?

Mr. ELLSWORTH. That is right.

The CHAIRMAN. That is the DIA?

Mr. ELLSWORTH. The DIA and the NSA and those are the principal subject matters.

The CHAIRMAN. And those are the concerns that you carry primarily?

Mr. ELLSWORTH. That is correct.

The CHAIRMAN. And you are not thinking in terms of the CIA as such?

Mr. ELLSWORTH. No.

Senator SYMINGTON. If the Chair will yield.

The CHAIRMAN. I will yield to you, Senator.

Senator SYMINGTON. I would like you to explain to us, if you will, Mr. Secretary—you say exclusively CIA. As I understand, there is now an effort to put the CIA in as a part of the military intelligence setup, or as an equal member of it, perhaps a senior member of it. I have always been very suspicious after General Graham's speech as to just what the military thought about the position of the CIA. And you have talked a

little at length about this with Director Bush. Now, Director Bush has a political base, and he has trenmedous popularity among the people and the Congress, and he is a strong man. But the way he explained the [illegible] plans that he had for an overall committee on intelligence, it seems to me that a normal man in that position could be drowned by military intelligence people. The whole idea of setting up the CIA was to have a brake against the estimate of the threat by the military. He assured me that he did not have that appehension. But I cannot get it out of my mind. I would like to ask you, what is the revised plan that you plan to have from the executive aspect as against what we are discussing here from a legislative aspect?

Mr. ELLSWORTH. Well, I have not heard about any plan to swallow the CIA up into military intelligence. Of course, for a number of years, as I understand it, the CIA program has been presented to the Congress as a part of what is called the consolidated defense intelligence program.

Senator SYMINGTON. I am talking about the new structure you plan.

Mr. ELLSWORTH. The new structure which the President established in his Executive order of February 18, 1976, simply creates a national Committee on Foreign Intelligence, of which Mr. Bush as the DCI is the Chairman. And I, as Deputy Secretary of Defense, am one of the members. The other member is Mr. William Hyland, who is Deputy Assistant to the President for National Security Affairs. And our charge is to see that a national perspective is imposed on the development of the planning, the programing, and the budgeting of all of the intelligence activities of the various branches of the Federal Government, so that there is a resource allocation process that insures that the President's perspective is brought to bear in connection with it. But there is certainly nothing in that about the military intelligence swallowing up he CIA, or dominating the CIA, or even getting involved in the CIA estimating.

Senator SYMINGTON. One more question. listening to it—and I did it with complete sympathy—in fact, it seemed to me that there was a meshing of the CIA into the military intelligence apparatus. If that is going to be the executive branch, then I would lean toward something of the Church recommendation, because if you are going to have an overall setup, including all intelligence, then you might as well have an overall setup from a regulatory standpoint that includes all intelligence. For example, under the Kennedy letter, the Ambassador in a foreign country had complete supervision of the Central Intelligence Agency man. But when it got back to Washington, the Foreign Relations Committee was cut out of it entirely, and the Armed Services Committee took it over. There never could have been any original chart that explained that absurd situation. And it cost us a lot of money, and it cost us a lot of lives, in my opinion. And I was on both sides of the fence. So what I am saying is that before we adopt any committee, whether it be Rules, Government Operations, the Church committee, or this committee, we ought to know what the plan is in the executive branch that you have for reorganizing intelligence in the executive branch. I think we ought to base a lot of our committee decision on that decision.

The CHAIRMAN. Thank you, Senator.

Senator TOWER. I call you on for questions and comment. You are a member of the Intelligence Committee.

Senator TOWER. Mr. Chairman, for the reasons stated by Mr. Ellsworth and for others, I oppose the creation of this committee. My approach would be that we should bring appropriate resolution, a permanent subcommittee of the Armed Services Committee to perform the jurisdictional responsibility that it already at this moment has, and try that system for a while. I believe that this oversight committee is going to result in a proliferation of disclosures of sensitive information. And I think the potential is very much there. I think that we have typically overreacted in the Congress to things that have been said in the press.

Now, the press may have often reflected public sentiment. In this particular instance, I don't believe that the press does. The overriding concern of the constituents that I have heard from on this matter is that we disclose too much, not too little. Most Americans, I think, want an effective intelligence-gathering capability, and do not insist on the disclosure of smoking tidbits of classified information to get their kicks. I think, too, that these kinds of disclosures taken out of context very often create distortion in the popular mind of what our foreign policy is or should be, and where the national interest lies. I see the potential for all kinds of mischief for this committee. And therefore I oppose its creation.

Those are my sentiments.

The CHAIRMAN. All right, do you have any questions for Secretary Ellsworth?

Senator TOWER. I have no particular questions for him, Mr. Chairman.

The CHAIRMAN. We will continue, Senator Jackson.

Senator JACKSON. I will defer for now.

The CHAIRMAN. Senator Thurmond.

Senator THURMOND. I am very strongly opposed to this Select Intelligence Committee. In the first place, I think it will lead to the disclosure to our enemies of vital information relative to our intelligence activities. I think it will do that in these ways. The size of the committee, with 19 members, plus a staff of 25 to 30, presents problems in protecting information. I don't believe you can keep information confidential when you have 19 Senators and 25 to 30 staff members dealing with it. I have been around here for 22 years. And I have seen information released when the Senate was cautioned that it would be improper and illegal to disclose information, but it got out. The newspapers, specifically the New York Times and the Washington Post, managed to get it some way.

A separate committee means a separate budget for intelligence, and thus public disclosure. If you are going to have a separate budget, people are going to inquire as to where this money goes and how it is authorized.

Next, the proposal requires the President to advise the committee in advance of any covert operations. I think that is ridiculous. The President of the United States has got to have some flexibility in when to move. This information is highly confidential, and the lives of those carrying out such operations could be subject, I think, to undue hazards.

I will give you an example. For instance, future Presidents will have to notify the Senate of operations such as the mining of Haiphong Harbor, the Son Tay Prison raid, and the *Mayaguez* rescue effort prior to execution. Any leak, however inadvertent, would endanger the lives of the personnel carrying out these orders.

In addition to the fact that it will lead to the disclosure to our enemies of classified information, separation of intelligence oversight from the Defense committees will weaken the intelligence agencies, as well as the Defense committees. Defense and intelligence are inseparable. Actions taken on the part of Defense depends upon intelligence. Defense decisions are predicated on foreign intelligence.

The level of our intelligence activities can be known to Members of Congress, but funding levels should be hidden within defense programs, as is now the custom in the Defense committees. That is, the two Armed Services and the Appropriations Defense Subcommittees. The House has decided not to add another layer of supervision, but undoubtedly will strengthen present oversight.

In conclusion, I would merely say this. The new committee may lead to placing the United States in the No. 2 or No. 3 position in the world when it comes to the effectiveness of our intelligence activities. I want to repeat that. This new committee may lead to placing the United States in the No. 2 or No. 3 position in the world when it comes to the effectiveness of our intelligence activities.

Next the Mansfield substitute does not offer any means of improving our system of capabilities. It merely changes present oversight and increases the numbers of managers in the Congress of intelligence activities.

And for those reasons, Mr. Chairman, I am very strongly opposed to the establishment of this Select Committee.

The CHAIRMAN. All right, Senator, thank you very much.

Senator Hart, that brings us to you. Right now we are questioning Secretary Ellsworth.

Senator HART. It sounds more like stating our position, so I will state mine. Much of what we have heard here this morning is what we heard when we established the Senate Select Committee on Intelligence 15 months ago. The committee was going to be a big sieve, 11 Senators and 100 staff members could not keep secrets, and Members of Congress did not have a right to know what was going on in this country, and on and on. And some of us have been directly the victims of administration leaks. I do not know why it is we have that double standard. Members of Congress and their staffs cannot keep secrets, but the administration is leakproof. Well, the administration under all Presidents and both parties have leaked like sieves when they want to. And, as I said, I have been a victim of that, so I know how it works.

Senator Tower knows as well as I that we have operated for 15 months with 11 Senators and over 100 staff members and have had no leaks. So this business about you can't have a congressional committee temporary or permanent without leaks is just preposterous. The record shows otherwise. And who is to say that because you wear an armed services hat that you are more leakproof than if you wear some other hat?

I don't like the size of the proposed committee. I would prefer that it be nine. But it is 17 members because of the compromise to accommodate those who oppose this to to begin with. The people who proposed this committee and support it don't want 17 members. I would not have 17 if it were my choice. Every living CIA Director has, on the record, supported this committee. The administration indicates that a single oversight committee is much better than the present confused situation.

I would, as I said before, be extremely interested in hearing from the Secretary rather than all of us just rehashing what our positions are on this, as we have been all along, particularly in the area where he talks about serious threats. If we have to empty the room to do it, I think we ought to hear it. Because that is what he is here for.

The CHAIRMAN. I do not try to control any Senator. I think we can have either comments or questions during this first round.

Senator Taft.

Senator TAFT. I must say I share some of the serious doubts about this already expressed by my colleagues, Senator Tower and Senator Thurmond. There are some practical things I would like to ask. Maybe Dr. Riddick or Mr. Ellsworth can comment on them.

But the question I have is that under the procedures involved, as I read them, the Armed Services Committee would be entitled to ask for a referral of a particular

matter to the Armed Services Committee for a period of time, is that correct?

Mr. RIDDICK. For 30 days. It goes two ways, it is sequential concurrent referral, except for CIA. Now, the CIA project does not come to any committee except to the Select Committee.

Senator TAFT. There is also in the bill a ban on the disclosure of information by any member of the committee to any other Senator outside of the committee of the classified information.

Mr. RIDDICK. There are two aspects in there. One is, until the committee has acted, you may not. After the committee has acted to divulge under certain circumstances, after this has been submitted to the Senate, they can pass it onto a committee or to a Senator. But the staffs are pretty well—

Senator TAFT. Only after the committee has acted and there has been an appeal to the President and so forth.

Mr. RIDDICK. That is correct.

Senator TAFT. The question that comes up to me, substantively, then is, how is the Armed Services Committee going to have enough jurisdiction?

Mr. RIDDICK. The Armed Services Committee also has a right to make investigations. The resolution specifically states that nothing given to the select committee shall prohibit any standing committee from making investigations within their respective jurisdictions that they already have.

Senator TAFT. But in order to find this out they are going to have to call in the various intelligence agencies, they can't go to the select committee and ask for it?

Mr. RIDDICK. This is a part of that compromise that Senator Hart was talking about there.

Senator TAFT. How are they going to know, unless they have an independent investigation? I do not know how they are going to know that they are going to get jurisdiction?

Mr. RIDDICK. That is what I was going to explain. Part of the reason that the committee got so large is the fact that they wanted two representatives from each of these committees.

Senator TAFT. But the ban on disclosure of information that is presently in the bill as I read it would apply even to a disclosure of information by the ex officio Armed Services Committee member to the chairman of the Armed Services Committee, if he is not a member.

Senator HART. If the Senator will yield, I think a portion of the bill may touch on that. Section 4(a) states:

"The select committee, for the purposes of accountability to the Senate, shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters deemed by the select committee to require the immediate attention of the Senate or such other committee or committees."

Senator TAFT. Would that apply to classified information?

Senator HART. That is what it does apply to.

Senator TAFT. But the same question would remain, I think, because the judgment would then be made by the Armed Services Committee unless the select committee decided to turn the matter over to the Armed Services Committee; the Armed Services Committee would have no way to know whether or not there would be a referral.

Senator HART. I think it is mandatory language. They don't have a choice.

Senator TAFT. It says deem, and deem to me confers a choice. They have to make a judgment, the legislative committee makes a judgment as to whether they think the Armed Services Committee ought to have this. If they decide that, then they have to defer it.

Senator HART. It is not an arbitrary kind of power that they have to decide whether to turn something over to the Armed Services Committee or not. If it is a defense-related matter, they have to. That is the way I read this language.

Senator TAFT. I don't read it that way, Senator. I think that is something that ought to be cleared up. I am thinking about an amendment, is why I am asking these questions along this line.

Senator HART. And you do have two members of the Armed Services Committee on this 17-member committee.

Senator TAFT. I understand that. I might comment that the 8 and 9 setup that you are advocating is that the 8 members involved are represening 61 Senators and with 9 Senators representing 39 Senators who aren't on the committee. It doesn't seem to me it be a very equalized situation. It seems to me that there ought to be an amendment saying that not more than two, because I don't ban the other members of the committee from serving on the Intelligence Committee.

Mr. RIDDICK. Here is another point on that:

"The select committee under such regulations as the committee may prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate."

Senator TAFT. Again, this is a judgment of the select committee, not of the various other respective committees involved?

Mr. RIDDICK. That is correct.

Senator HART. Would the Senator yield again?

One other section is 3(c) on page 4:

"Nothing in this resolution shall be construed as prohibiting or otherwise restricting the authority of any other committee to sudy and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee."

Senator TAFT. This is a separate investigation such as we mentioned earlier?

Senator HART. That is right.

Senator TAFT. I would like to ask Secretary Ellsworth, in section 4(b) is a provision that:

"The select committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation for public dissemination. Such reports shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interests. An unclassified version of each report shall be made available to the public by the select committee. Nothing herein shall be construed as requiring the disclosure in such reports of the names of individuals engaged in intelligence activities for the United States."

And so forth.

What in your opinion would be the effects on foreign intelligence sources to us of it being known that there will annually be such a report made public?

Mr. ELLSWORTH. I think that the effect of that report would be to apprise foreign nations of the extent of our familiarity with their operations against us, and would assist them in perfecting and strengthening their operations against us.

Senator TAFT. Thank you. That is all the questions I have.

Mr. RIDDICK. The purpose of that compromise, Senator, was to not prevent the select committee from collecting sensitive information, but then the next paragraph, an unclassified report is, after they sift it out they should make that public. But it was to get all such information they wanted, and then make unclassified reports pursuant to the information they obtained.

Senator TAFT. Mr. Riddick, you are our Parliamentarian, and I always thought [redacted] very good one, for many years. Doesn't [redacted] subsitute amendment really involve a change in the Senate rules?

Mr. RIDDICK. Not directly. It is sort of like the concept that you may not put legislation in an appropriations bill. But by the use of a limitation you can prohibit the operation of existing law which does not amend that law, and therefore is not subject to a point of order.

There was one thing in here, the reason for—and I wish Senator Symington was still here, because he was disturbed about this particular point—on section 12, getting back again to the phrase "subject to the Standing Rules of the Senate," when you begin to adopt this as proposed to a provision in the law, you are beginning to adopt orders for the Senate. And when you adopt an order for the Senate, you are subjecting anything to the contrary of this resolution to a point of order, whereas if you write, as you did in your law or procurement, that no appropriation should be made unless they are authorized, that presents a different problem, because the Chair is not called upon to interpret the law. And it would not subject that to a point of order. If you put this in one single man, not the Senate, can make a point of order and knock the thing out. Whereas if you leave this language in there, "Subject to the Standing Rules of the Senate," you do not throw everything subject to a point of order and let one man kill it, it becomes a vote of the majority of the Senate. That is the main purpose of this proviso here as designed.

Senator STENNIS. Yes, let me say a few words here, with as much emphasis as I can. Of course the membership is not as numerous as it was a minute ago.

Based on my experience as a Member [redacted] the Congress, the legislative body, any legislation or activity as broad and as far-reaching as this that is not done in conjunction with the House of Representatives is going to fame; it doesn't make any difference what kind of a rule we adopt. It encircles the globe; it goes to the innermost operations of the Government, it goes to every diplomatic post that we have around the world, the subject matter of this legislation. And also, to the very heart of the operations of our Government, far beyond the military, to the operation of any major enterprise in the United States and foreign countries that is involved in all the matters that come into these appropriation bills and the other legislation.

I am not talking about surveillance now, I am talking about legislation. And to try to have anything that is as involved as that controlled by the Senate that is also not binding on the House of Representatives is just not going to go in my opinion.

Imagine the Appropriations Committee of the House sitting around their table and being bound by a Senate rule. They would look upon it as being ridiculous. And I say that with all respect to the author of this measure. They are trying to meet a problem, that is what they are doing, the Senators on the Church committee, the Rules Committee and the others, they are trying to meet a problem. But to those of us who have been here for years, and have been in these conferences meeting with the very fine Members of the House, we know that they will snort at these limitations that you put on the Senate.

I said way back there that I would favor, if it is worked out very carefully, a joint committee on intelligence. I think the problem has grown, and everything, and I think perhaps that is the best way to handle it. But anything that concerns major legislati[redacted] is just not going to make a go of it with t[redacted] House Armed Services Committee and the House Appropriations Committee if they are

not included in the guidelines, the legislation, or whatever you may call it.

So, I emphasize with all deference to everyone that a plan that doesn't include them is going to prove unworthy.

[redacted] we have to remember too that this ma[redacted] of getting up an authorization bill as required by this resolution, a real authorization bill now that goes into the matters here that are necessary—you can figure out something on paper, but an authorization bill or a budget, or whatever you may call this intelligence operation that will be passed on and adopted at some point by the entire Senate, and then be the controlling guideline for the appropriation bill of the Senate and not the House that is something. The undertaking itself, dealing wtih those annual authorizations, and then the other phases of legislation, is just a monumental undertaking. And I don't think it can be done as well and as thoroughly as required by this resolution, and it is impractical to start with. But I felt like Senator Hart wanted to go further in cross-examining the Deputy Secretary here that he is entitled to.

But, it is sensitive that we would have to largely clear the room, because I don't want to take all that responsibility.

But I can illustrate here something that has come out. Now, there has been a project that went on for years which was finally discovered, this Russian submarine that we undertook to surface.

That went through many appropriation bills, and so forth.

Finally, the cable broke, we actually had it fastened, and almost to the surface.

I know what all they went through. It was just impossible for all that to have gone through all those processes that we discussed this morning without that having been disclosed. And of course, first, it didn't have to be disclosed to become worthless, once it was suspected that we were trying to do something with that submarine we were out of business, and everything was lost.

[redacted] other illustrations could be given that haven't become known yet.

So, I don't see how any President of the United States can be held accountable for the security of this Nation, or the Congress either, unless we can work out some system that is simpler than this. It may have its defects and it will. Our present system has its defect, and plenty of them.

So, I have to oppose that general concept.

Now, Mr. Secretary, are there any other points that you can think of? And I want you to answer questions here by our Chief of Staff, too. But make your points further.

Mr. ELLSWORTH. The only other point, Mr. Chairman, is a personal point that comes out of what some of my friends, for example, in the academic community have been saying for a couple of years, before I came into the Defense Department, to the effect that it is logical, if we are going to spend that amount of money on intelligence, to have a coherent, unitary budget for that, and logical therefore to give the jurisdiction for authorizing that budget and for overseeing its performance, and so forth and so on, in to a separate committee in the Congress. They use words like logical and coherent. But I want to stress again that notwithstanding the appeal of logic and coherence, the fact of the matter is that in real life this is going to give us tremendous problems in our responsibilities as far as the Defense Department is concerned, first of all, because naturally when you get things into a coherent, unitary picture in the intelligence field, foreign intelligence specialists and analysis—the analysts who work for foreign powers—are not so dumb that they can't figure out on the basis of a year-to-year comparison basis what is going on in our intelligence collection [redacted] more effective and efficient basis than they are today.

The CHAIRMAN. You mean intelligence from foreign nations?

Mr. ELLSWORTH. That is right. A foreign analyst analyzing our program is going to have a tremendous edge when he can look at our unitary defense overall intelligence budget and compare it from year to year and put it together with other bits of information that he has assembled on the worldwide basis. It is going to be a tremendous help to him with his problem, figuring out what we are doing and how he can counter it.

That is one problem.

Another problem is a reflection of the point yourself made, Mr. Chairman, and that is if the Senate has this process, it is just going to mean double accounting, it is going to mean double automation, and double staffing as far as we are concerned in presenting our budget to the two bodies.

So those are our points.

The CHAIRMAN. Senator Thurmond.

Senator THURMOND. I might ask you this. Have you any thoughts or recommendations on the way you think intelligence might be handled by the Congress to provide the greatest protection to the Government?

Mr. ELLSWORTH. Well, I would think—and speaking again for Secretary Rumsfeld—that it would be desirable as well as—it certainly would be desirable from the standpoint of the public confidence and support in intelligence operations, and completely acceptable to us, there could be either in the one body, or in the other, or both, or on a joint basis, an oversight committee which would have and exercise a rigorous oversight function over the various intelligence activities of the Government, which would not imply involving itself in these other problems which I have mentioned; that is to say, the administrative problems and the unitary budget presentation problem which I have mentioned.

And it seems to me that that would be something that could be and would be beneficial to everybody in the Government and to everybody in the intelligence community, because of the fact that it would improve and increase, presumably, the public's confidence, and therefore support, for necessary information-gathering functions.

Senator THURMOND. I believe Mr. Colby said he would welcome a small joint committee on the matter of surveillance. There would be no objection to that, as I see it. As the chairman mentioned, a joint committee would save intelligence officials from making so many appearances. They have to appear before the Armed Services and Appropriations Committees of the Senate, and the Armed Services and Appropriations Committees of the House. If you had a joint committee of both Houses, they could make one appearance instead of four.

I often thought that if we could save the time of these officials in the executive branch that have to come up here before the Congress, it would mean a great deal.

So, a joint committee would appear to be all right if it is not too large; wouldn't it? A joint committee of both Houses, possibly? Would that be your thinking?

Mr. ELLSWORTH. That would certainly be in the right direction.

Senator THURMOND. These are all the questions I have.

The CHAIRMAN. Now, Senator Taft, do you have any questions?

Senator TAFT. Yes, Mr. Chairman.

Mr. Riddick, going back to the rules question, isn't it true that this resolution involves changes in the provisions relating to disciplining of members?

Mr. RIDDICK. Well, I don't know of any rules in the standing rules except rules 35 and 36 and 37 of the executive operations of the Senate that in any way penalize. Of course, we have got in the constitution the power to expel them, and we have got the practice of censuring them. And I would assume that the Senate could cite another Senator for contempt. Certainly they could apply——

Senator TAFT. Not under this rule they couldn't. They can cite employees for contempt, but they can't cite Members for contempt.

Mr. RIDDICK. I don't think changing the constitutional power—that is the only place that the rules provide as the basis on which we have censured anyhow, under the power of the Senate to censure its Members.

Senator TAFT. Let's go to another point on the same question. Isn't it true that the rules currently set the jurisdiction of the various committees?

Mr. RIDDICK. Yes. And his is a question that I raised, Senator. When they are talking about giving the exclusive jurisdiction to this committee. And I don't know how you are going to get a ruling to that extent, unless somebody later on makes a ruling, I mean, focuses a point of order to the question. And that is it. If you go back to rule 25 and look at the jurisdiction set forth to the various committees there, you won't find anywhere that it specifically says that the Armed Services Committee shall have jurisdiction over CIA.

Now, this proviso here merely says that there shall be referred to this committee these following suggestions, and there it stops.

Senator TAFT. The rules set up what the committees are; doesn't it?

Mr. RIDDICK. Yes.

Senator TAFT. Isn't that a permanent change in the rules to set up a new committee?

Mr. RIDDICK. That doesn't block the Senate—just like we did in the Small Business Committee, in my opinion—that doesn't block the Senate from giving limited jurisdiction to the Select Committee on Small Business.

However, if there was something, say, for example—and I am not sure, I have not investigated all aspects of it—as I said to the committee when they were talking about this, if you try to take something away from a committee that was specifically set forth in rule 25, giving that committee specific jurisdiction over it—say, for example, it did say in rule 25 that the CIA shall go to the Armed Services Committee—then to do this——

Senator TAFT. The CIA is a part of the Armed Services and the Rules; the committee should have jurisdiction over the Armed Services.

Now, it has taken that way.

Mr. RIDDICK. I know what you are saying. But the point is, you have got to get a ruling from the Chair on it. And I would say that if the proviso in rule 25 gave the Armed Services Committee specifically the CIA, and somebody should introduce a bill, and you could ask the Chair where he was going to refer it, and he said to the Select Committee on Intelligence, why you could make a point of order, Mr. Chairman, that rule 25 provides for the reference of the CIA to the Armed Services Committee. And then the Chair would have to rule, and you could take an appeal, and the Chair would submit the ruling to the Senate for division. But where it is silent, and it doesn't specify in the rules that some of these things go——

Senator TAFT. It does specify the Armed Services as to the DIA. The DIA is part of the Armed Services.

The CHAIRMAN. Will you yield to me?

The term "common defense" is what is in the rule, isn't it?

Mr. RIDDICK. I think that is it exactly, common defense, generally.

The CHAIRMAN. Yes; common defense.

Senator TAFT. I won't belabor this point, Mr. Chairman. It is obviously one that is going to be brought up.

For my own information, however, I would like to ask Dr. Riddick to describe as he understands it the current situation with re-

gard to the finance backing, whatever the procedure might be, of the CIA.

In other words, I understand there is a code section which permits transfer of funds to the CIA from other areas, it does nothing through authorization committees today, it goes through the Appropriations Committee. And there is some kind of an information procedure. Is that information procedure to various committee chairmen, and so forth, in writing? What is its history, and where do we stand today? What is the current procedure? I don't really understand that. I tried to find out about it at the time of Angola, and I couldn't get any help; I couldn't find anything in writing as to the current procedure.

Mr. RIDDICK. I am in your predicament, too. I know in the appropriations bill they did provide for the transaction not to exceed a certain amount for certain purposes.

Senator TAFT. There is a code authorization for the transfer, I understand that. But as to what checking is done and why the checking is done, is there anything in writing at all?

Mr. RIDDICK. That is kind of a legal question that gets a little out of my field.

Senator TAFT. I don't think it is legal. There isn't anything in the Senate rules that you know of that relates to this consultation process, is there?

Mr. RIDDICK. I don't know of anything that would prohibit it in the rules.

Senator TAFT. Can you tell us what the practice has been? This goes directly to [illegible] is subcommittee question.

Mr. RIDDICK. The practice has been that when the budget comes up for estimate on the various purposes, even though they might be silent and give it in a lump sum, we refer the whole thing to the Appropriations Committee.

Senator TAFT. If there is a desire to get an appropriation after the bill is passed, and a desire to transfer for a new project of the CIA, some money from another department, what happens?

Mr. RIDDICK. I don't think it is spelled out any more, Senator.

Senator TAFT. Do you know as a matter of practice what happens? Because I got the same kind of answers from where I asked. And I think it does show the need for some institutionalization here.

Mr. RIDDICK. I would assume that it is administrative action pursuant to that transfer of power.

Senator TAFT. Purely the matter of CIA coming to various Members of Congress of their choice or understanding and telling them about it, is that right?

Mr. RIDDICK. After consultation, I assume, with certain Senators who have been doing some oversight in that area.

Senator TAFT. There is nothing in writing that requires in any way that they consult with the chairman of the Armed Services Committee or the chairman of the Foreign Relations Committee or the chairman of the Appropriations Committee, or the ranking membership.

Mr. RIDDICK. Not that I know of.

Senator TAFT. Thank you. That is my understanding, but I am amazed by it. Everything I understood was to the contrary until this came up. Everybody thinks that there is a definite procedure, but there isn't any.

The CHAIRMAN. We will come back to that.

I would like to give these gentlemen a chance to ask questions. This is a general discussion and inquiry about the pending resolution being debated on the floor now. We went into the version known as the Cannon amendment, that was filed yesterday; it goes back to the resolution by the Rules Committee, and also Government Operations Committee. Dr. Riddick has been with them during the course of the proposals so I invited him to be here.

I asked Senator Cannon to come, but he could not. He suggested Dr. Riddick, and I was glad to invite him.

The Deputy Secretary of Defense for intelligence, Mr. Ellsworth, was invited to come here to give us what he saw in this matter. I called on Mr. Braswell to state what he saw in it.

All who have been here have not only impressed the Members, but have also asked questions of Mr. Ellsworth and Dr. Riddick.

So, I call on you gentlemen now.

Senator Nunn, I call on you.

Senator NUNN. I am taking up where Senator Taft left off. I don't know what has been talked out before he started because I wasn't here.

The thing that bothers me, that I have the most questions about, is how the budgetary part of this is going to work. I am like Senator Taft, I am not sure what the status quo is now. I don't know how it is working now. I am not on the Committee that deals with it. So let me start there.

Is there an authorization process for the CIA budget? Is there an authorization process at the present time?

I will call on Mr. Braswell.

Mr. BRASWELL. Senator Nunn, in the basic law there is a provision that gives CIA authorization, but I do not have the annual process required by law.

Moving to the appropriation process, they obviously get annual money every year, and then that becomes a question of in what accounts the money will be placed. Part of that intelligence money, in order to spread it around, and to require the least amount of disclosure, is in the authorization bill. All the CIA money is in defense appropriations.

So then, the question is, what portion do you want authorized which covers procurement, R. & D., but not O. & M. in support?

Now, for the CIA alone, that is not carried in the authorization. So, technically it is not authorized in the sense that it is covered in the military authorization bill on the floor, it is covered in other elements of the DOD appropriation. There are other large elements of the intelligence activities of defense that are authorized, and some of them are split, some in one side and some in the other. But then that is a division of how you are going to cover it.

Senator NUNN. I am not sure I understand now. You are saying that none of the CIA budget is authorized in our military bill now?

Mr. BRASWELL. It could be, as a cover.

Senator NUNN. If it has got a permanent authorization anyway, why would you need to reauthorize it?

Mr. BRASWELL. It is not a question that you do not have to, but it is a question of when you want to hide the money, put it in two places. It does not have to be locally.

Senator NUNN. You are saying that part of the intelligence budget now is authorized?

Mr. BRASWELL. Yes.

The CHAIRMAN. And the DIA budget?

Mr. BRASWELL. Some.

Senator NUNN. I can't judge this proposal until I know what the situation is. I don't know how much you want to go into. It is impossible for me to judge a new proposal. I know where we are now. And I don't have any idea.

Mr. BRASWELL. The big distinction as to this proposal and the way it is done now is that you do not have to have a separate bill to authorize any intelligence activity, it is hidden entirely in the appropriations without authorization, or it is hidden under missiles or something else in the defense, but it is never surfaced as an intelligence function.

Senator NUNN. Let's put it this way. If you do have part of the DIA budget authorized, that still requires an appropriation in addition?

Mr. BRASWELL. Everything requires an appropriation.

Senator NUNN. So, everything right now for intelligence has to be appropriated every year?

Mr. BRASWELL. Yes, sir.

Senator NUNN. And it is all in the [illegible]ropriations bill in the DOD budget?

Mr. BRASWELL. Yes, sir. And so has been authorized——

Senator NUNN. It could be in the DOD under authorization, in procurement, in manpower or O. & M.

Mr. BRASWELL. Half and half. But this is totally different here, in having by rule a bill coming out saying, so much for intelligence.

Senator NUNN. That is the point I want to get to. In the Cannon substitute, as I understand it, would say that all the authorization for all the intelligence community would come in this one bill?

Mr. BRASWELL. It says you shall not appropriate after September 30, 1977, unless such funds have been previously authorized by a bill or joint resolution passed by the Senate during the same or preceding year. That raises the whole issue of disclosure, and these are for designating the activities of CIA, DIA, NSA, and so forth.

Senator NUNN. My next question is, how do you have an authorizing bill that comes out of the Senate if you don't have the same thing coming out of the House?

Mr. BRASWELL. That is the issue, it will be controlling on the Senate appropriation, which the House does not control.

The CHAIRMAN. That is the point I made; there is no such legislative channels that I ever heard of, an authorization bill or a joint resolution passed only by the Senate.

Senator NUNN. We are going to get up on the floor and have an authorization bill on the intelligence budget, and are we going to debate that authorization bill separately from everything, is that right?

The CHAIRMAN. That is correct. Dr. Riddick.

Mr. RIDDICK. That is what the rul[illegible]ro-vide.

Senator NUNN. I don't see how that is possible.

The CHAIRMAN. That is what the argument is about, Senator.

Mr. RIDDICK. If we should pass the bill and send it over to the House, they would do something with it.

The CHAIRMAN. I know what they would do with it. They would laugh at it.

Mr. BRASWELL. They cannot do anything in the House, because there is no requirement for authorization within the House under the House rules.

The CHAIRMAN. I made the point, Senator Nunn, if you will yield to me, with all deference to every Senator, and every committee, and the author of every bill, a plan cannot be successful if it does not include the House in a legislative plan.

Senator NUNN. I recommended before the Rules Committee—maybe they considered it and rejected it—I recommended that the oversight committee—maybe Senator Culver and Senator Taft could listen to it—that the oversight committee, if there is going to be an oversight committee, be given the responsibility of reviewing the intelligence budget. And then making a recommendation on that intelligence budget to the authorizing committee, which would be Armed Services Committee, and then have it built into the same authorization that we have now, so that we would not be on the floor debating the individual items. I don't think that is practical, and I don't think it can possibly work.

Senator TAFT. I agree with you totally. And if that committee had the recommendation authority to us, then it co[illegible]be built into our budget.

Mr. BRASWELL. But that is not what this provides.

Senator NUNN. I know it. I don't see—maybe Dr. Riddick can explain to me how this is going to work as a practical matter. Would we be involved in a detailed debate on the intelligence budget on the floor of the Senate every year?

Mr. RIDDICK. That is if the Select Committee on Intelligence reported such a bill.

Senator NUNN. You meant, no, they don't have?

Mr. RIDDICK. It says matters coming up here for reference. If we have got a permanent authorization for the CIA, we could go ahead and appropriate without providing the legislation if the select committee did not report the legislation.

Senator NUNN. They don't have to do it, then, under this.

Mr. RIDDICK. If any requests for it come up, it would be referred under this resolution to the Select Committee on Intelligence.

Senator NUNN. Where is this permanent authorization in the law? Is it in the law there?

Mr. RIDDICK. I am starting from what Mr. Braswell just gave us.

Senator NUNN. You are saying that that permanent authorization is continuing on the books in law now?

Mr. RIDDICK. Yes. We have got—as I understand it, I am citing from experience—we have got a few legislative authorization provisions that dates back clear to 1789, we still appropriate every year. Where there is no annual appropriation required, or where a legislative authorization bill does not put a limitation on the years, it becomes a permanent authorization.

Senator NUNN. Where is that provision in law? Have you cited that, on the CIA?

Mr. RIDDICK. Mr. Braswell has it.

Senator NUNN. I think Ed Braswell doesn't agree completely with this.

The CHAIRMAN. Would you like to ask him the [redacted] question now? This is purely an informal meeting. It is a key question, and there is some dispute about it.

Senator NUNN. Yes.

Mr. BRASWELL. I would be the last one to argue with Mr. Riddick on parliamentary law. This is a new Senate rule which says that no funds shall be appropriated for any fiscal year. I realize this is subject to the old standing rule. But this amends it unless such funds have been previously authorized by a bill of joint resolution by the Senate during the same preceding year to carry out such activity for such fiscal year.

The CHAIRMAN. What are you reading from?

Mr. BRASWELL. This is the Cannon substitute.

Mr. RIDDICK. But you didn't read the opening phrase, "Subject to the Standing Rules of the Senate."

Mr. BRASWELL. You are reading to get in a point of order issue there. The question is, what does this really mean then if you adopt this as a rule, then you do not have an annual appropriation or authorization. Are you saying that you do not really have to do it?

Mr. RIDDICK. My point is, under this as it is written, if there were no additional authorization, and the appropriations committee recommended funds for said purposes, it would not be subject to a point of order on the Senate floor. And therefore the Senate could go ahead and pass that appropriation bill, including those funds.

Mr. BRASWELL. I guess the issue that Mr. Riddick is making is that if the new select committee chose not to carry out this mandate under the rule in the form of an annual authorization, the action of the Appropriations Committee, the funds would not be subject to a point of order.

Mr. RIDDICK. That is right.

The CHAIRMAN. I think that clears it up.

Senator NUNN. This is such an important point that it seems to me that it is a very bad situation we are in. I am sure that most of the people that are for this substitute, probably part of their premise of being for it would be that they think there is going to be an annual authorization bill. And most of the people who are opposed to it are worried about that particular point for the same reason as those with opposite opinions. And what we are realy finding out with it is that it is strictly up to the committee as to whether there is going to be an annual authorization bill or not.

Mr. RIDDICK. The presumption is that the committee would report something premature to their assignment under this resolution.

Senator NUNN. And if they do, we are going to be in the business of reporting on the floor of the Senate at the authorization debate containing the whole intelligence budget. And there would be no way to get into a breakdown, would there?

Mr. BRASWELL. Let me interject that the CIA is only one of five activities which must be authorized for appropriation, and the DIA as such has no permanent language.

Senator NUNN. You mean if the committee did want to authorize that——

Mr. BRASWELL. They have got to authorize for the rest.

Senator NUNN. This was the main question I had. I really think there ought to be at least an effort to amend that part of this bill by this committee. And my suggestion is that we consider and let counsel consider having a committee with the duty to review the overall intelligence budget, or whatever they have under that jurisdiction, and make a recommendation to the authorizing committees as to what that budget should be, and then let the authorizing committees make the final decision.

The CHAIRMAN. All right.

May I ask one question gentlemen? Following Senator Nunn's questions, directing your attention to what you said this morning about the perceptiveness of foreign intelligence analysts and how they watch our expenditure. Let me re-ask that question now, with reference to the budget that he brought up.

Mr. ELLSWORTH. The point was that even if the Senate didn't get into the details of what was in a national intelligence budget, the fact of the matter is that by watching changes in the size of the budget from year to year, if a coherent, unitary intelligence budget was offered publicly and discussed publicly, putting that together with other pieces of intelligence information gathered over a period of years and all around the world, foreign intelligence analysts, that is to say the intelligence analysts in foreign capitals could very quickly flesh out the intimate details of all of our intelligence programs and their capabilities and it would be quite a revelation to them, and quite an addition to their overall capability.

The CHAIRMAN. Let me say here, gentlemen, in the time I have been into this work, I have been tempted many times to make more disclosures as to the money part. It has always been embarrassing to me—I mean, disclosures to my colleagues about the money part. If it comes up, we can debate it on the floor many times. But I am always restrained from disclosing matters indiscriminately or even moderately because of the point that the Secretary has made. Foreign Intelligence analysts have the capacity to interpret, directly and indirectly, and put things together as they watch you from year to year. The more I got into it, the more I am convinced that it just has to be kept under the hat to a large degree.

Senator Thurmond, do you have any questions?

Senator THURMOND. I don't have any other questions.

The CHAIRMAN. Senator Taft.

Senator TAFT. I would like to ask Mr. Ellsworth one thing. Do you have any comment on what the effects would be of the proposed changes insofar as the commitments in time of the executive branch versus concern with intelligence might turn out to be?

Mr. ELLSWORTH. Yes, If this were to be adopted by the Senate, then it would mean, as far as our time is concerned in the Pentagon, in the preparation of our budget, and th justification of it in detail, that we would have to have, because of the necessity to go ahead and follow the regular procedures, or the existing procedures, I should say, that would continue in the House, that we would have to have double accounting, probably not double staffing, but we would have to have a considerable increase in our staff, and a considerable increase in our automatic data processing machinery equipment and capability, and it would be a very considerable add-on.

Senator TAFT. I was thinking about the time of the Secretary and various others under the Secretary testifying on the Hill as well.

Mr. ELLSWORTH. Of course, there would be that addition also.

Senator TAFT. I would like to raise a point at this time, Mr. Chairman.

The CHAIRMAN. All right, Senator.

Senator TAFT. I think the Secretary's testimony has been extremely interesting, and I think very relevant, and should be available to Members of the Senate during the debate on this measure. And I wonder what would be the disposition of the chairman or the committee with regard to making the testimony of the Secretary public after this meeting and making it available, and the debate. And I would particularly like to ask the Secretary if there is anything that he has gone into here that is so sensitive that it should not be discussed or included in any such disclosure of information?

Mr. ELLSWORTH. Not that I can think of. But if the committee wants to do that I would like to have an opportunity to review it, if I could get it quickly, I will review it immediately. I don't think I have anything, but I would like to have that opportunity.

The CHAIRMAN. Subject to review, the chairman would be glad to release it.

Senator THURMOND. I think it would be a good idea to have his testimony available to show just how the burden is going to be increased on the Defense Department, their time, and their efforts, and additional personnel, and so forth. And if this could be made available, I think that would be helpful.

Senator NUNN. If the Senator will yield just a moment for one point here, I had conversations with Bill Tobey, and he gave me a concrete example. Sometimes I think they are necessary when you are talking about debate.

For instance, the *Glomar Explorer*—is that the name of the ship that they sent out? The funding on that, if it has been disclosed, the total budget, there would have been a bulk in the intelligence budget for certain years while that was being built, and then inevitably the foreign agent would have been able to tell there was something up, and they would have sent it in and probably found out about that.

Now, is there any way without breaching confidence that you can be more specific and give us, at least for the record, to be used in debate, some examples that occurred in the years past that would have led to disclosure? We have to talk in the abstract so much about this thing so that nobody can appreciate the reality of it.

Mr. ELLSWORTH. Let me do the best I can. I will draw on that example, and see if I can find some others, Senator. I will be glad to try.

Senator THURMOND. That would be helpful.

Mr. ELLSWORTH. I will have to go back into history.

Senator NUNN. How about the U–2 incident? I think if you could show us what would have happened under this procedure, if it had existed at certain points in our history about certain intelligence information, it would be very useful. But if we have to just talk in abstractions about what we fear may happen, I don't think it is going to convince many people.

The CHAIRMAN. Mr. Secretary, is there something else you want to say?

Mr. ELLSWORTH. No.

The CHAIRMAN. Mr. Riddick?

Mr. RIDDICK. No, sir.

The CHAIRMAN. We thank both of you very much for coming.

Senator NUNN. May I ask Dr. Riddick one question. What would be wrong with having the Select Committee on Intelligence making a budget recommendation that would then be built into the authorizing legislation of existing committees?

Mr. RIDDICK. We have got a proviso in the resolution that requires the committee to, "the select committee on or before March 15th of each year, the select committee can submit to the committee on the budget"—they have to make a report to that committee on all the details. But as to how this can be handled in the authorization, if you amend that section that spells out the details of how the authorizations are to be made and so forth, you could accomplish whatever you wanted to accomplish if you wanted to change the present rules.

Senator NUNN. What would be the main arguments against this? That it would diminish the authority of the committee?

Mr. RIDDICK. Senator, I will tell you, I have been into about 20 conferences with these people trying to reach compromises. And this is what they came up with actually. I didn't do anything to go along with them to try to get language that would be acceptable.

Senator NUNN. I understand that. But that would probably be the objection, that it would dilute the authority of the new committee.

Mr. RIDDICK. I think that is true, I think that what they want to do is to make it more public, make the information more public, and at the same time try to protect security.

Senator THURMOND. How can they do that?

Mr. RIDDICK. It is a difficult problem, Senator. I don't know how you can do it. As the Secretary has indicated, if you go a certain way, like if you publish information to whom you are giving contracts for defense purposes, that sets up a picture for the intelligence of foreign countries to plant spies in that plant and locate what they can. If you give them an indication that you are doing so and so, it gives them an idea where they can plant spies. I don't know how you can do it.

Senator THURMOND. As I see it the more information disclosed the more our security is subject to being jeopardized. I can't see it any other way.

Mr. RIDDICK. I don't feel that I am entitled to express an opinion. I just say what the problem is.

Senator THURMOND. Sure. We understand your position.

Mr. BRASWELL. Mr. Secretary, just to wrap this up, you say that there are certain elements of this bill, the proposed resolution, that would be damaging to U.S. intelligence efforts.

Mr. ELLSWORTH. We feel that the authorizing for appropriation provisions in sections—I don't remember what the numbers are, 3 and 12 if my memory serves me correctly—would be damaging in that they would force the presentation in public of a unitary, coherent budget for intelligence operations and organizations.

Mr. BRASWELL. And that damaging effect results from the fact that more information would have to be disclosed?

Mr. ELLSWORTH. That is correct.

Mr. BRASWELL. Dr. Riddick, would you be able to shed any light on what was intended under this 11(b) when it says, "It is the sense of the Senate that the head of any department or agency involved in any intelligence activity should furnish any information or document in the possession, custody, or control of the following agencies," et cetera. Now, that has no limitations on it in terms of words. Was it intended that this would be no limitation? Could the committee put a demand on all our agents in foreign nations to furnish this to that committee?

Mr. RIDDICK. That sense of the Senate doesn't give the committee any additional power, in my opinion.

Mr. BRASWELL. What was the sense of those words as far as furnishing documents?

Mr. RIDDICK. My humble opinion is, the purpose at the time the Government Operations reported this resolution, the feeling was that they couldn't do, get a law passed, by joint resolution, what they could do by Senate resolution. Because it came to me that the House was not going to consider such, and that they were just putting in the sense of the Senate as provided by that law, knowing full well that you can't legislate by simple resolution, emphasizing that these were the things that they wanted the departments to know that the select committee would be concerned about.

Mr. BRASWELL. Do you think they intended that they furnish everything that the committee might ask for, anything?

Mr. RIDDICK. I would hate to interpret their motives.

Senator THURMOND. This is a Senate resolution, isn't it?

Mr. RIDDICK. That is correct, a simple resolution.

Senator THURMOND. Is the effect of that a concurrent resolution?

Mr. RIDDICK. No sir. This has no relation with the House, nor can it concur in the legality.

Senator THURMOND. It is not legislation, and it is not law. Would the Defense Department be bound by it?

Mr. RIDDICK. No more so than they would under any situation in the case of investigating committee that had subpena power.

Senator THURMOND. I imagine they would contest this, if they are not bound by it. Because if the national security of the country is jeopardized by some resolution of either body of the Congress, I presume the executive branch would make a test of that in court, if necessary.

Mr. RIDDICK. I would say this, Senator, as a procedure to be binding on the Senate, it endeavors to set up a procedure for the Senate to follow. It does not give any select committee any legal authority to get information that it doesn't have already.

Senator THURMOND. It would be a resolution that would be a guide and to the Senate to get what information they could, but it is not law, another branch of Government would not necessarily have to be bound by it, would they?

Mr. RIDDICK. The extent of the committee is its subpena power to get information.

The CHAIRMAN. Gentleman, do we have further questions? If not, Mr. Ellsworth and Mr. Riddick, thank you very much.

We will take a recess, gentlemen, subject to the call of the Chair.

[The attached letter from Secretary Ellsworth has been submitted for inclusion in the record at this point:]

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., May 14, 1976.

Hon. JOHN C. STENNIS,
Chairman, Armed Services Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I have reviewed my testimony of yesterday and would have no problem with its being released.

You will recall that Senator Hart indicated he would like to know "what the grave risks are" which I had mentioned in setting forth Department of Defense concerns with regard to the visibility that would be created by a separate budget information process. Inasmuch as the Committee did not have the opportunity at yesterday's meeting to return to that question, I thought it might be helped if I were to spell out in a little bit more detail what I had in mind.

As you know, the Department of Defense plans, programs, budgets and operates several very expensive high technology collection systems, which collect foreign intelligence information not only for the Department of Defense but also for the Department of State, for the Central Intelligence Agency, for the NSC Staff, and for the President. The very fact of the existence of the specific systems I am referring to is never officially acknowledged. First, because the fact of the existence of a given system could, when combined with other facts, expose United States foreign intelligence collection sources and methods—thereby enabling foreign powers to deny that information to us.

I fully recognize the difficulty of proving the validity of the foregoing proposition in public debate. It is not a matter which can be debated in public without at the same time doing the very damage which the policy of nondisclosure is designed to prevent. Therefore, in order to sustain the validity of the above point, it is absolutely necessary to rely on the informed judgment of the President and those to whom full knowledge of these extremely expensive and sensitive systems and programs has been entrusted.

Second, public discussion of a comprehensive intelligence budget, as would be required by the separate budget formulation process now being considered, would inevitably bring these matters into much wider knowledge, in two ways:

a. Such a budget could hardly be debated without debating the particular parts thereof; and

b. The exposure of changes in the overall size of a comprehensive intelligence budget, over a period of years, would give to the intelligence analysts of foreign powers a substantially increased capability, when they combined information of those changes with other intelligence information available to them, to begin to get at the programs and systems I have in mind, and the capabilities thereof. The intelligence analysts of foreign powers are not so dull and inattentive as to overlook the shifting patterns of expenditure and programming which would be revealed.

I think it is important to keep in mind that the very openness of our society already gives to the intelligence analysts of foreign powers a considerable advantage as they work to collect and understand information on our capabilities and intentions, as well as our vulnerabilities. To give them the added advantage of details of programs and systems which heretofore have been fully protected from their scrutiny would be quite undesirable.

In reviewing some recent history, for example, it is interesting to note that overall national intelligence funding showed a bulge from fiscal year 1969 to fiscal year 1972, then a slight decrease to fiscal year 1976, then a more marked decline. The initial bulge reflected initial funding of the Glomar Explorer; the slight decrease represented the conclusion of the initial production phase

and the more marked decline coincided with the public disclosure of that operation and its abandonment. If that pattern had been available to the intelligence analysts of foreign powers at the time, they might well have been able, when combining that pattern with other bits and pieces of information available to them, to have been relatively fully informed on the Glomar Explorer program.

A separate point, Mr. Chairman: the Department of Defense would still be required to maintain a budget formulation process for the House of Representatives which would continue to conform to an appropriation account. The two separate processes which would be required would in themselves impose upon us the necessity to maintain double accounting for our intelligence programming and budgeting. It would also require additional expenses, additional staff, and additional automation equipment.

I hope that this is helpful, Mr. Chairman, to yourself and to the Committee and to the Senate.

Respectfully,

ROBERT ELLSWORTH.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. McCLURE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TAFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1646

Mr. TAFT. Mr. President, I call up my amendment No. 1646.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, line 12, delete paragraph (b) and substitute the following provision:

(b) Any proposed legislation or other intelligence matter considered by the select committee, except any legislation involving matters specified in clause (1) or (4)(A) of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall be communicated to the chairman and ranking member, respectively, of such standing committee, and at the request of the chairman of such standing committee any proposed legislation shall be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within thirty days after the day on which any proposed legislation is referred to such standing committee; and any proposed legislation reported by any committee, other than the select committee, which contains any matter within the jurisdiction of the select committee shall, at the request of the chairman of the select committee, be referred to the select committee for its consideration of such matter and be reported to the Senate by the select committee within thirty days after the day on which such proposed legislation is referred to such committee. In any case in which a committee fails to report any proposed legislation referred to it within the time limit prescribed herein, such committee shall be automatically discharged from further consideration of such proposed legislation on the thirtieth day following the day on which such proposed legislation is referred to such committee unless the Senate provides otherwise. In computing any thirty-day period under this paragraph there shall be excluded from such computation any days on which the Senate is not in session.

Mr. TAFT. Mr. President, this amendment relates to section 3(b) of the proposed substitute, page 6 of that substitute, which sets up a procedure under which any proposed legislation reported by the select committee, except legislation relating to authorizations and legislation relating to the Central Intelligence Agency, or the Director of Central Intelligence, containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter.

Then it goes on to the procedural aspects of how this is handled requiring the standing committee to act within a specified period of time.

The PRESIDING OFFICER. The Chair inquires of the Senator if this is the amendment upon which 2 hours have been designated.

Mr. TAFT. No; this is a 1-hour amendment.

The PRESIDING OFFICER. I thank the Senator.

Mr. TAFT. Mr. President, the question that occurred to us in the hearings before the Armed Services Committee with regard to this amendment was whether there was any way in which the chairman of the standing committee could possibly know what matters were before the intelligence committee so that he could ask for jurisdiction to be asserted under this particular clause.

Let me read briefly from the transcript of the committee hearings before the Armed Services Committee in this regard, page 9 of that transcript:

Senator TAFT. I must say I share some of the serious doubts about this already expressed by my colleagues, Senator Tower and Senator Thurmond. There are some practical things I would like to ask. Maybe Dr. Riddick or Mr. Ellsworth can comment on them.

But the question I have is that under the procedures involved, as I read them, the Armed Services Committee would be entitled to ask for a referral of a particular matter to the Armed Services Committee for a period of time, is that correct?

Mr. RIDDICK. For 30 days. It goes two ways, it is sequential concurrent referral, except for CIA. Now, the CIA project does not come to any committee except to the Select Committee.

Senator TAFT. There is also in the bill a ban on the disclosure of information by any member of the committee to any other Senator outside of the committee of the classified information.

Mr. RIDDICK. There are two aspects in there. One is, until the committee has acted, you may not. After the committee has acted to divulge under certain circumstances, after this has been submitted to the Senate, they can pass it onto a committee or to a Senator. But the staffs are pretty well——

Senator TAFT. Only after the committee has acted and there has been an appeal to the President and so forth.

Mr. RIDDICK. That is correct.

Senator TAFT. The question that comes up to me, substantively, then is, how is the Armed Services Committee going to have enough jurisdiction?

Mr. RIDDICK. The Armed Services Committee also has a right to make investigations. The resolution specifically states that nothing given to the select committee shall prohibit any standing committee from making investigations within their respective jurisdictions that they already have.

Senator TAFT. But in order to find this out they are going to have to call in the various intelligence agencies, they can't go to the select committee and ask for it?

Mr. RIDDICK. This is a part of that compromise that Senator Hart was talking about there.

Senator TAFT. How are they going to know, unless they have an independent investigation? I do not know how they are going to know that they are going to get jurisdiction.

Mr. RIDDICK. That is what I was going to explain. Part of the reason that the committee got so large is the fact that they wanted two representatives from each of these committees.

Senator TAFT. But the ban on disclosure of information that is presently in the bill as I read it would apply even to a disclosure of information by the ex officio Armed Services Committee member to the chairman of the Armed Services Committee, if he is not a member.

Senator HART. If the Senator will yield, I think a portion of the bill may touch on that. Section 4(a) states:

"The select committee, for the purposes of accountability to the Senate, shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters deemed by the select committee to require the immediate attention of the Senate or such other committee or committees."

Senator TAFT. Would that apply to classified information?

Senator HART. That is what it does apply to.

Senator TAFT. But the same question would remain, I think, because the judgment would then be made by the Armed Services Committee unless the select committee decided to turn the matter over to the Armed Services Committee; the Armed Services Committee would have no way to know whether or not there would be a referral.

Senator HART. I think it is mandatory language. They don't have a choice.

Senator TAFT. It says deem, and deem to me confers a choice. They have to make a judgment, the legislative committee make a judgment as to whether they think the Armed Services Committee ought to have this. If they decide that, then they have to defer it.

Senator HART. It is not an arbitrary kind of power that they have to decide whether to turn something over to the Armed Services Committee or not. If it is a defense-related matter, they have to. That is the way I read this language.

Senator TAFT. I don't read it that way, Senator. I think that is something that ought to be cleared up. I am thinking about an amendment, is why I am asking these questions along this line.

Senator HART. And you do have two members of the Armed Services Committee on this 17-member committee.

Senator TAFT. I understand that. I might comment that the 8 and 9 setup that you are advocating is that the 8 members involved are representing 61 Senators and with 9 Senators representing 39 Senators who aren't on the committee.

The point that I would make is that there is no way under which the Armed Services Committee can know what is before the Select Committee on Intelligence unless the Select Committee on In-

telligence itself makes a judgment that it wants to refer to the Armed Services Committee. If the select committee wants to leave the Armed Services Committee in the dark, they can leave them in the dark because they would deem it was not within their jurisdiction or area of interest.

So I think we have a real question here. I attempt, by this amendment, to clear it up by changing the language saying that any matter otherwise under the jurisdiction of any standing committee shall be communicated to the chairman and ranking minority member, respectively, outside the standing committee. Then we would go ahead with the same language for concurrent jurisdiction that is included in the substitute as it presently stands.

Mr. President, with regard to that, the committee never really did resolve the question. I would be interested in hearing from the distinguished chairman of the committee and the ranking minority member as to what their understanding is in this regard and how mechanics of this can work.

I reserve the remainder of my time.

Mr. RIBICOFF. I would be pleased to respond. Senator TAFT's amendment requires the new committee under section 4(a) to communicate to the appropriate standing committee any intelligence matter, as well as any legislation considered.

Section 4(a) already requires this new committee to promptly communicate with the appropriate standing committee any matter deemed by the select committee to require the immediate attention of such committee. What worries me is that the mandatory nature of the proposed language, in conjunction with its vague reference to the words "any matter," could unduly hamper the new committee's operations. If it requires disclosure of all the details of an intelligence activity, for example, it could be a burdensome requirement. The general language in 4(a) is preferable. Under section 3(d) on page 7 the other standing committees will be able to obtain directly from the intelligence committee the information they need.

I read:

(d) Nothing in this resolution shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the Senate to obtain full and prompt access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

And on page 7 is 3(c):

(c) Nothing in this resolution shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee.

I would like to point out that last Thursday the distinguished Senator from Nevada (Mr. CANNON) introduced an amendment cutting down the size of the committee from 17 to 15. The pending substitute also mandates that two members on that committee be from Armed Services, two from Foreign Relations, two from Appropriations and two from the Judiciary. So the standing committees that have jurisdiction generally over the agencies that engage in intelligence will have the majority of the 15 members on that committee.

Mr. TAFT. Will the Senator yield at that point?

Mr. RIBICOFF. I would be pleased to yield.

Mr. TAFT. What confused me is the fact that, as I understand the prohibition on communication of information by members of the Select Committee on Intelligence even though there are ex officio members on that committee from various other standing committees with concurrent jurisdictions, there would not be any authority on their part to even communicate to their own chairmen something before the Select Committee on Intelligence that they felt also would entitle the other standing committee with concurrent jurisdiction to receive it.

Mr. RIBICOFF. May I point out they are not ex officio. They are actual, voting members of that 15-member committee. There is a provision that at the request of the so-called parent committee there is a sequential referral for a period of 30 days. So the other committee can ask that it be referred on to them.

If this is going to work at all, there has to be comity between the standing committees, the select committee, and the executive branch of our Government. If there is not this comity, it is not going to work. It is inconceivable to me that any intelligence matter would be kept back from the parent committee.

Mr. TAFT. Will the Senator yield?

Mr. RIBICOFF. I am pleased to yield.

Mr. TAFT. Can the Senator answer specifically under the legislation as it is now proposed, without any amendment, whether the members of the Armed Services Committee, who also are Members of the Select Committee on Intelligence, have the right—never mind the duty—to communicate information that they get on the select committee to the chairman of the Armed Services Committee and the ranking minority member of the Armed Services Committee?

Mr. RIBICOFF. It is my understanding that when it comes to communications the communications will be in accordance with rules and regulations established by the select committee. We did not try to write into the legislation how they were going to communicate with one another. But the select committee, with eight members being from the four other committees, could sit down and make the rules and regulations of the select committee which could provide under what circumstances there would be communication from the select committee to the other standing committees. I am sure the eight members would see to it that they would be able to communicate to the so-called parent committee a matter that affects the standing committee and its operating functions.

I wonder if my distinguished colleague from Illinois interprets the resolution the same way that I have.

Mr. PERCY. Mr. President, if the Senator will yield for just a comment, on line 22 on page 14, paragraph 2, the language says:

The Select Committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate.

It certainly seems that by our prescribing that two Members shall come from each of the four committees, the intent and purpose is to be certain that those committees, each of which do deal with one aspect of intelligence, are fully apprised, and that there shall be a member of both the majority and the minority.

Any time any member of that committee feels that certain matters are being discussed that the other cognizant committees should be aware of, there is adequate procedure for making certain that that information can be transmitted.

The problem I have with the pending amendment is that it would require a tremendous amount of reporting by the intelligence committee of a broad range of matters not requiring legislation, simply by those words "or other intelligence matter considered by the select committee." The burden of responsibility would be tremendous, and much of that material might be highly sensitive. That would seem to drastically reduce the independence of the intelligence committee, and place a burden upon it which hopefully the group working on the compromise in the Government Operations Committee have provided for by making certain that there is a broad-based representation on the intelligence committee itself, and that the four cognizant committees are fully represented on that committee at all times.

Mr. RIBICOFF. If I may add further, we were careful not to try to write all the rules and procedures in the legislation. You have to read 8(c)(2) on page 14 with section 3 (c) and (d) on page 7 and section 4(a) on page 7 together. I look at all those provisions to be taken together.

These provisions show that it is the intention of the resolution that the new committee keep informed all these other committees sharing responsibility. I do believe that we have, in 3 (c) and (d) and 4(a), combined with 8(c)(2) on page 14, the method by which to keep the Armed Services, Foreign Relations, Judiciary, and Appropriations Committees completely informed. I would be very disappointed in the intelligence of the Senate as a whole and the select committee if they were not able to prescribe rules to assure that the Armed Services, Foreign Relations, Judiciary, and Appropriations Committees could exercise their appropriate functions.

Mr. TAFT. Mr. President, I yield myself such time as I may consume.

I appreciate the good intentions of the distinguished Senator to discuss the fact that there would be good coordination under the regulations of the Select Committee on Intelligence. But I still have not received an answer to the basic question as to whether there is any legal

right under the resolution as drafted for a member of the Select Committee on Intelligence who is also a member of the Committee on Armed Services to go to the chairman of the Armed Services Committee, or the ranking minority member if he be a member of the minority, and tell them about a matter that is being heard by the Select Committee on Intelligence which comes also within the concurrent jurisdiction of the Armed Services Committee.

I point out with regard to that the specific language included in section 8(c)(1). We have been talking about section 8(c)(2), but I would call attention to section 8(c)(1), which is a flat prohibition, saying that no information in the possession of the select committee relating to the lawful intelligence activities, and so forth, which has been classified, can be disclosed to any other Member or anyone else.

Mr. RIBICOFF. I would say it could not without action by a majority of the select committee.

Mr. TAFT. So it would be up to the select committee to vote.

Mr. RIBICOFF. To the select committee, by a majority vote; and the select committee may have regulations requiring a written record of who was disclosing what to whom.

Mr. TAFT. Then I go on to point out—I do not really agree with the Senator in that statement, because it seems to me the prohibition in (c)(1) is so clear it is not even amended by (c)(2). The Senator says it is amended by (c)(2); I would take it this would be legislative history on that point. But it still does not give in the control of the member of the Armed Services Committee the decision as to whether he talks with the chairman of the Armed Services Committee, which I think is an intolerable burden to put on the man, and he is in a conflict of interest position, basically.

Mr. RIBICOFF. No, I would say that (c)(1) provides in line 21, "or as provided in paragraph (2)." If you go now to (c)(2), it gives the select committee the authority to make regulations to communicate this matter to the other committees.

I have complete confidence that the select committee will be able to make sure that they transfer from the select committee to the other committees the knowledge and information as provided under section 4(a).

I think we are making the legislative history right here today indicating how that would be achieved.

Mr. TAFT. I would just say with regard to that, I am afraid I cannot agree with the Senator on it. It seems to me that subsection (2) merely applies to the way the regulations of committees will operate. It does not really say what the individual member of the committee may or may not do with regard to his other standing committee. It gives me a good deal of pause about this. I do not see any way in which there is direct authority for a member of the select committee to refer a matter to the standing committee of which he is a member.

I feel we have a deficiency here, which I think is a rather serious one insofar as the committee referral is concerned, and apparently it is an intended deficiency. Apparently the intention of the draftees of the substitute is that individual members of the select committee who are members of another standing committee which has concurrent jurisdiction may not communicate to the chairman or the ranking minority member of that committee information that they get with regard to a matter properly within the jurisdiction of the Armed Services Committee or the other standing committee.

This seems to me to put them in a direct conflict of interest position insofar as their position on the standing committee is concerned. The amendment is designed to correct that, and I do not see what harm the amendment does in correcting it. It merely says they have that authority. I am not attempting to take it one step farther than that.

But if the matter also comes before the Select Committee on Intelligence, I think the member of the select committee should be authorized to go before the chairman of the committee.

The matter might be solved if the only members of the select committee who are members of the standing committee were the chairman and the ranking minority member of the standing committee. That might resolve it, although then perhaps someone would even find within himself a conflict as to whether he could take that information and move with his committee.

Mr. RIBICOFF. I wonder if the Senator would concur—and I would have to check also with the distinguished Senator from Nevada and the distinguished Senator from Illinois—if, on page 8, on line 5, we deleted the words "deemed by," crossing out the select committee, and then having "requiring," so as to make it read "such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters requiring the immediate attention of the Senate or such other committee or committees."

So anything of importance would immediately be sent over to the committee having sequential jurisdiction, without requiring such committee to take all the minutia that comes to it, and give it to the other committees, or all the details which would not concern the other committee. Does the Senator from Ohio think that would solve his problem?

Mr. TAFT. It does solve my problem in some part anyway because it seems to me to go to matters requiring immediate attention. I do not know why it should be limited to those matters, but it is a step in the right direction certainly so if the matter does require immediate attention, of course, we have it all. What it would do practically is give the member of the Intelligence Committee, who is a member of the standing committee, a basis for raising the question and saying this is a matter requiring the immediate attention of the committee.

Mr. RIBICOFF. I am even willing to take out the word "immediate" so then there would be no problem what our intention is. It is definitely our intention if there is any matter of importance involving any other committee that that matter should go to this other committee for its attention. If we took out the word "immediate" that would indicate that it is the intention of this resolution that when a matter of substance comes before the Intelligence Committee it then goes over to the Committees on Armed Services, Foreign Relations, Judiciary, or Appropriations.

Mr. TAFT. I think with that change it meets substantially the objections I have been raising.

Mr. RIBICOFF. I would suggest the absence of a quorum so I could consult with the Senator from Illinois and the Senator from Nevada.

The PRESIDING OFFICER. The clerk will call the roll. The time is to be equally charged against both sides.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I yield myself 1 minute on the bill.

The PRESIDING OFFICER. The Senator from Montana is recognized.

PUBLIC WORKS EMPLOYMENT ACT OF 1976

Mr. MANSFIELD. Mr. President, on behalf of the Senator from West Virginia (Mr. RANDOLPH) I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3201.

The PRESIDING OFFICER (Mr. MCCLURE) laid before the Senate a message from the House of Representatives insisting upon its amendments to the bill (S. 3201) to amend the Public Works and Economic Development Act of 1965, to increase the antirecessionary effectiveness of the program, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. MANSFIELD. I move that the Senate agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. RANDOLPH, Mr. MUSKIE, Mr. MONTOYA, Mr. BURDICK, Mr. RIBICOFF, Mr. GLENN, Mr. BAKER, Mr. MCCLURE, Mr. STAFFORD, and Mr. JAVITS conferees on the part of the Senate.

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The Senate continued with the consideration of the resolution (S. Res. 400) to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll. The time is to be charged equally to the proponents and opponents of the Taft amendment.

The second assistant legislative clerk proceeded to call the roll.

Mr. TAFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, I ask to modify my amendment.

The PRESIDING OFFICER. The modification will be stated.

The legislative clerk read as follows:

On page 8, line 5, delete the words "deemed by the" and substitute the words, "requiring the".

On page 8, line 6, strike the words, "select committee to require the immediate".

Mr. TAFT. I appreciate the consideration this matter was given by the Senator from Connecticut and the Senator from Illinois.

I believe this largely does meet the problem that I have raised. I think, practically, with this language as modified that the intention will be clear that the individual members of the Select Committee on any matters affecting the other standing committee on which they serve will be in a position to ask the Select Committee to call the matter to the attention of the other standing committee for their possible assertion of concurrent jurisdiction.

Mr. RIBICOFF. Mr. President, the amendment offered by the distinguished Senator from Ohio is acceptable to me.

Mr. PERCY. Mr. President, a point of clarification.

The PRESIDING OFFICER. The Senator will state it.

Mr. PERCY. Is the language substituted for the language offered before by the distinguished Senator from Ohio?

Mr. TAFT. Yes. That was the intention of the Senator from Ohio. The language is a substiute for the amendment previously offered.

The PRESIDING OFFICER. Does the Chair understand that the Senator from Ohio states this is a substitute for the entire language?

Mr. TAFT. It is a substitute for the amendment.

The PRESIDING OFFICER. The amendment is so modified.

Mr. PERCY. Mr. President, with that understanding and also taking into account the wording of the substitute, the objection the Senator from Illinois had before has now been fully taken satisfied. The concern that I had before was that it imposed a tremendous burden upon the committee to refer all other intelligence matters considered by the Select Committee to another committee whenever it involved their work. This clearly delineates the difference now between all matters, which might include minor matters, and matters of considerable importance. With that modification and substitution, it is acceptable.

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1645

Mr. TAFT. Mr. President, I call up my amendment No. 1645.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. TAFT) proposes amendment numbered 1645.

The amendment is as follows:

On page 4, line 20, delete the word "not".

Mr. TAFT. Mr. President, for the advice of the Chair, this is a 1-hour amendment, not the 2-hour amendment in the unanimous-consent agreement.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The time to be charged to the bill or to the amendment?

Mr. MANSFIELD. To the bill.

Mr. CRANSTON. Mr. President, will the Senator withhold that, for a unanimous-consent request?

Mr. MANSFIELD. Yes.

COMMITTEE DISCHARGED FROM FURTHER CONSIDERATION OF S. 1174, EARTHQUAKE HAZARD REDUCTION ACT

Mr. CRANSTON. Mr. President, this request has been cleared on both sides of the aisle, with all concerned.

S. 1174, the Earthquake Hazard Reduction Act, originally called the Earthquake Disaster Medication Act of 1975, was introduced on March 13, 1975. It was referred by unanimous consent to the Committee on Commerce, with an additional referral to the Committee on Labor and Public Welfare for a period not to exceed 30 days, if and when it was reported by the Committee on Commerce.

I now ask unanimous consent that the Committee on Labor and Public Welfare be discharged from further consideration of this bill as of the time it was reported by the Committee on Commerce, so that the bill will be placed directly on the calendar as of that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum, in accordance with the previous request.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR MANSFIELD TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, on tomorrow, I be allotted not to exceed 15 minutes, after the joint leaders have been recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PROXMIRE ON WEDNESDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on Wednesday next, after the joint leaders have been recognized, the Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The Senate continued with the consideration of the resolution (S. Res. 400) to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

Mr. MANSFIELD. Mr. President, it is my understanding that the Senate has agreed to a 20-minute limitation on debatable motions or appeals under the unanimous-consent agreement. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. MANSFIELD. It is my further understanding that the following amendments are still to be considered:

One Taft amendment, which is now the pending business; a possible Taft amendment with a 2-hour limtiation, which will be offered tomorrow; one Allen amendment, and one Tower-Stennis-Thurmond amendment which will take not to exceed 4 hours, plus the remainder of the 4 hours on the bill.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and at 4:15 the Senate adjourned until tomorrow, Tuesday, May 18, 1976 at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate, May 17, 1976:

FEDERAL ELECTION COMMISSION

The following-named persons to be members of the Federal Election Commission for the terms indicated (new positions):

For terms expiring April 30, 1977:

William L. Springer, of Illinois.

Neil Staebler, of Michigan.

For terms expiring April 30, 1979:

Vernon W. Thomson, of Wisconsin.

international model. Although most analysts agree that the long term price elasticity of exports is greater than one, it may be more relevant to question this assumption rather than whether the elasticity is as high as 5.[4]

B. Price passthrough

In the May 4, 1976 CRS report on the DISC export subsidy, CRS noted that the potential price passthrough could be calculated on the basis of recorded DISC profits, or on the assumption that firms would react to DISC by seeking to maintain the same after-tax profit margin. Using the latter method would lead to the possibility of a somewhat larger reduction in export prices. The second method for computing the potential price passthrough, however, was not used in an earlier CRS report on DISC that was also released to the public. Quoting the first rather than the second study, the Treasury quite rightly points out the implications of the second method.

CRS, however, does not agree with the Treasury that a reasonable estimate of the maximum price passthrough is 3.3% DISC of export revenue, and consider it to be not very significant in any case. The 3.3% effect estimate by Professor Horst in the Senate Budget Committee's hearings cited by Treasury is based on the assumption that the effective corporate tax rate is the statutory rate. We believe that this assumption is not reasonable and suggest the use of 30% tax rate. The 30% rate is approximately the average effective domestic tax rate for manufacturers as reported in the National Income Accounts and is adjusted by various factors.[5] While it is true that the marginal tax rate is equal to the statutory rate, it is not appropriate to use the marginal tax rate unless it is being applied to the marginal rate of return. In this instance, since the average rate of return can be calculated, and not the marginal rate of return, it is more appropriate to use the average effective tax rate.

In fact, use of a 30% tax rate may be too high since exported products tend into fall in industry categories relatively favored by U.S. tax law—agriculture, timber and paper and allied products, and manufacturing. Using an effective tax rate of 30% to compute the price passthrough results in a maximum estimate of price passthrough to export revenues, when after tax returns are equated, of 2.4%. The "best case" estimate of increased export revenue would then be $1.9 billion. In the May 4 CRS report is is noted that such an estimate is somewhat above the $1.4 billion CRS estimate, but is substantially below the $4.6 billion Treasury estimate.

In addition, if a comparison of the impact on revenue with the subsidy provided by the DISC provision is made, the tax revenue loss estimate resulting from DISC should be adjusted to take into account the changes in export prices and quantities. Rather than comparing the $1.9 billion estimate with a $756 million revenue loss, the estimate should be compared with a $1.06 billion revenuie loss, (2.4% of export value). This larger tax revenue loss takes into account the DISC-induced reduction in the taxable income base as well as the rate change.

C. Export base

Treasury also argues that optimistic assumptions about price passthrough and elasticity effects may be applied to the *entire* volume of U.S. exports—rather than merely those that are eligible for and use DISC privileges. Treasury argues: "If all U.S. exports of a certain product type are sold at the same price, it would then be reasonable to assume that the 'passthrough' price reduction would lead to an increase in foreign demand for all U.S. exports."

A logical extension of the argument could say: and if, as generally understood, domestic sales of U.S. products must compete with our export markets it is reasonable to assume that the price relief deriving from DISC on exports might soon filter down to entire trillion and a half dollar economy with a diminished inflation, reviving sagging consumer demand and boosting job and otuput levels. This is undoubtedly true. However, it is unsound to assume that the passthrough effect to the entire economy would remain at 3.3%. It is equally wrong to apply the 3.3% calculated for the DISC export market to the entire market.

DISC, or other special tax privileges, cut the cost of doing a particular kind of business for a particular kind of businessman (the taxfavored firm). The effects on increasing production depend on decreasing the expense of operating at a particular level of output (or maintaining the same unit costs as output is pushed upward). Assuming that the full benefit of decreased costs flows through to purchasers, an estiamte of demand elasticity can be applied to guage the likely market for the favored, now cheaper goods. But we cannot legitimately apply this same elasticity to all the product markets conceivably competitive with those of the privileged firms. To do so would presume that output would be expanded, and additional costs incurred, by producers who are not only unfavored by tax preferences, but see their selling prices falling as well. Consumers might well enjoy such an arrangement. But profit-making U.S. enterprise rarely operates in this fashion.

In short, Treasury uses the price passthrough presented by Professor Horst, for DISC related exports only. Treasury, however, applies the DISC passthrough to all exports, which obviously are much greater. If the DISC passthrough estimate is to be applied to all exports, then the passthrough must be calculated from a base that includes all exports. When this calculation is made the passthrough effect to all exports is found to be 2.4%, not 3.3%. When the more reasonable assumption of a 30% effective tax rate is used, the 2.4% passthrough effect to all exports is reduced to 1.5%, and the "best case" effect on export revenue is $1.9 billion, the same result as using only the DISC export base.

Aside from the questions of appropriate price elasticities, the fact that an estimate of 5 should be viewed as too high should be reemphasized. None of the discussed estimates take into account the secondary effects of flexible exchange rates which would act to reduce the initial export gains. Nor should calculations of the impact on export revenues and employment obscure the central question of DISC—is it an appropriate policy in a world of flexible exchange rates? As the original CRS report suggests, there is no way to determine, given a specified level of fiscal stimulus, whether the effect on jobs is positive or negative.

The Treasury Department also argues that the price elasticity approach is inappropriate because DISC was never intended to reduce price. The critique then goes on to point out that the function of DISC is to increase the quantity of exports through a higher rate of return to the manufacturer, and to draw attention to the export market. Unless there are severe barriers to entering the export market, for each and every product exported, any increase in the rate of return from exporting must be short-lived. A rate of return to exports higher than the rate of return available elsewhere would attract new investment to the export sector and thereby increase the quantity of exports. This increased supply, however, normally would result in lower prices and a reduction in the rate of return back towards that available in the other markets. The net effect would be an increase in the U.S. export market at the expense of domestic markets. In effect DISC acts as a subsidy to foreign consumers of U.S. products. It would also seem reasonable that more cost effective methods of drawing attention to the export market exist. It is hard to imagine that over $700 million—Treasury's estimated cost of DISC for 1973—is a cost effective way to accomplish this purpose.

[4] It should be noted that a price elasticity of 5 implies that a 10 percent fall in the price of exports would result in an increase in quantity demanded of 50 percent.

[5] "Effective Corporate Tax Rate: Toward a More Precise Figure," by Emil M. Sunley, Tax Notes, March 1, 1976, pp. 15–24.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there any further morning business? If not, morning business is closed.

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, Senate Resolution 400, which the clerk will state.

The assistant legislative clerk read as follows:

A resolution (S. Res. 400) to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

FURTHER AUTHORIZATIONS FOR THE COUNCIL ON ENVIRONMENTAL QUALITY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate turn to the consideration of Calendar No. 773.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 11619) to authorize further appropriations for the Council on Environmental Quality.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Without objection, the bill was considered, ordered to a third reading, read the third time, and passed.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATIONS, 1977—CONFERENCE REPORT

Mr. MOSS. Mr. President, I submit a report of the committee of conference on H.R. 12453 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. ALLEN). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12453) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today.)

Mr. MOSS. Mr. President, the conference agreement authorizes to the National Aeronautics and Space Administration for fiscal year 1977 $3,695,170,000. This is $1,830,000 below the NASA budget request for the fiscal year. This conference report authorizes $2,761,425,000 for research and development; $120,290,000 for construction of facilities; and $813,455,000 for research and program management. The actions of the conferees on the differences between the House and Senate bills are recorded in the joint explanatory statement accompanying this conference report.

Mr. President, I believe the conference report now before the Senate reflects a balanced program for the NASA for the forthcoming fiscal year. I believe that the conferees have exercised budgetary restraint and have agreed upon a program which makes the maximum use of the resources which are recommended herein for the Agency. It is forward looking. It is constructive and in addition to supporting sound ongoing activities it will provide a good base for future research and development activities in space and aeronautics.

While there was some reduction in the NASA request and the amount approved by the Senate, I am pleased that the conferees agreed to provide $2.2 million to construct an addition to the lunar sample curatorial facility at the Lyndon B. Johnson Space Center for the storage of, and more importantly, to provide the capability to process the 842 pounds of lunar samples returned to Earth by the highly successful Apollo program. This facility addition will provide the support necessary to conduct a program of scientific research on these materials, acquired at great cost to the Nation, with the objective of increasing our knowledge of the Earth's space environment. These materials represent hard evidence in the overall study of the processes taking place in the space environment and they may well prove to be extremely important to understanding the factors in that environment that impact the Earth on which we work and live. This facility requirement was examined carefully by the Committee on Aeronautical and Space Sciences prior to its being recommended to the Senate. The committee, in its report on the fiscal year 1976 NASA authorization bill, requested further study and a report on this requirement by NASA. The report was submitted on October 23, 1975. This study considered remote storage, use of alternate facilities at the Johnson Space Center, a facility at another location, and the facility project as originally proposed. Also, upon receipt of the fiscal year 1977 budget request restating this facility item the committee asked the Comptroller General to review the location of and the design plans for the facility. I think this facility project has been reviewed adequately and responsibly. I think it is necessary, it is supported by the scientific community, and I believe the support that the Senate has shown for this project is fully warranted.

Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MOSS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The Senate continued with the consideration of the resolution (S. Res. 400) to establish a standing committee of the Senate on intelligence activities, and for other purposes.

Mr. PERCY. Mr. President, it is anticipated that sometime tomorrow votes will be held on Senate Resolution 400. I am anticipating some of the concerns that Members of the Senate have expressed about the proposed compromise resolution that will hopefully be voted upon.

Some Members have expressed concern as to why the new committee on intelligence is embracing defense intelligence.

I would like to comment briefly on this point, because it may be that there will not be too many Senators on the floor today. Possibly some might be interested in some of the deliberations that have occurred and the hearings that have been held over a period of many weeks under the chairmanship of the Senator from Connecticut (Mr. RIBICOFF). They have brought out testimony which certainly has caused the Senator from Illinois to conclude that it would be in the national interest and in the interests of senatorial oversight for the new proposed Committee on Intelligence to include defense intelligence as well as all other aspects of the intelligence community.

I shall be very brief, but I would like to make the following points:

First, DOD does represent a huge portion of the overall intelligence budget. The Church report says:

> DOD controls nearly 90 percent of the Nation's spending on intelligence programs.

These programs are clostly, and they do go to the heart of the intelligence provided to the Federal Government, the executive branch of the Government essentially, but upon which Congress rightfully draws in attempting to formulate judgments in many areas. The Senator from Illinois himself has found this information valuable.

But for the Senate of the United States, after extensive inquiry, the establishment of select committees, the months of hearings, and voluminous reports, if we were to establish a committee on oversight over the intelligence community and then to exclude from that committee 90 percent of its expenditure, I wonder if we would not be in a position where we would be presuming to say to the country, "We have seen the nature of this problem; we intend now to exercise diligence in connection with our oversight responsibilities; and yet we are establishing a committee that would have only 10 percent of the intelligence budget under its jurisdiction for authorization and oversight." So, for that reason alone, I should think we would want to include DOD.

Also, if for any reason, in any amendment proposed, the Senate voted in favor of excluding the Department of Defense intelligence from oversight responsibilities of the overall committee, would we not then go to the heart of breaking the compromise that has been reached wherein concurrent responsibility was assigned to the intelligence committee as well as to the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on the Judiciary for oversight over Defense, State, and FBI intelligence?

So, once we invade this area and break the compromise that had been so painstakingly worked out, would we not then establish a precedent to say, then, let us take everything else back into the other committees? Instead of having a focused responsibility in the hands of one committee clearly by its own charter and by its name, with the implication that it is going to have that oversight responsibility as one of the major functions of that committeee, would we not in a sense even fractionalize further a Senate procedure which has led us to the present point? The past procedure has really meant we had implied oversight, but with so much diversified responsibility that we never really did have effective oversight. It was even up to the point where the Secretary of State testified before the Committee on Government Operations that he thought he knew what the intelligence community was doing as it affected foreign policy, but he was shocked and surprised in the hearings and revelations of the Church committee to find that he did not know what he should have as Secretary of State.

I wonder if any Member of the Senate who has exercised oversight responsibility in the past could today say that, as a Member of the Senate assigned to that particular oversight responsibility, he was not shocked and surprised to find m[illegible]

operations being carried on that he did not know about when he had the oversight responsibility.

So, one of our problems has been a diffusion of responsibility. It seems like everyone had it and, therefore, no one had it. Is it not better to focus oversight on one committee that has that overall picture and overall responsibility and then, just so that there is no chance that we would not exercise proper responsibility within a chosen field, have concurrent oversight responsibility as is provided for in the compromise?

The second point that I mention is that the armed services are a major consumer of finished intelligence, and obviously those framers of the compromise have determined for that reason the Committee on Armed Services should have concurrent jurisdiction.

But the Senator from Illinois points out that those who worked out the compromise, and from the inception of the construction of the bill in the Committee on Government Operations we always drew the distinction between exercising oversight over a particular activity and having the benefit of the end product of intelligence. We have tried to make it very clear in this legislation and this resolution before us that any committee of the Senate that requires the end product of intelligence to carry out its responsibilities should have that end product. It is not necessary for that committee to feel that it is only going to get that information if it happens to set the budget. That is not necessary at all.

In the number of years the Senator from Illinois has served in the Senate, never once has the Senator from Illinois ever been deprived of proper end product intelligence in formulating judgments and obtaining information from the CIA, Defense Intelligence Agency, or whoever it may be, simply because the Senator from Illinois did not sit on a committee that happened to set the budget. I do not think we have to feel in that respect that that is the only way we can receive the end product of intelligence.

The third point I make is that DOD Intelligence has been subjected to much criticism on managerial grounds. DIA was created to provide a single intelligence voice for the Secretary of Defense. In point of fact, it has constituted an additional layer over the parochial interests of the individual service intelligence branches. DIA's defense attaché program has been much criticized for incompetency and mismanagement. NSA is often accused of gathering too much information at too great a cost.

I do not believe that this area is so sacrosanct that we should not oversee it, when the power of the purse has been so clearly given to Congress in the Constitution. Even through the area is sensitive we have the ability, the right, and the duty to go in and say how much is it costing, how much duplication exists, and what is the end product that we are getting, is it cost effective? Someone must ask those questions in the framework where the whole picture is available to those who are asking the questions. Unless Members of the Senate have that total picture they would be the first to say they are not truly competent to ask the right questions and to exercise the kind of oversight that can and must be made over every expenditure of the Government no matter how sensitive it may be, in order to see whether we have the overlapping and duplication that has been so apparent in the Church committee report. All of this goes back to the fact that 20 years ago the now majority leader of the Senate had the wisdom and the foresight, as he so frequently has had, to say that we cannot exercise this responsibility that Congress must and should carry out unless we have a committee given the full responsibility and authority to carry out this function. Are we then, after all of these years, after the wisdom of that judgment at that time has now been so unmistakably proven, to once again fractionalize the intelligence oversight functions now to be asusmed and that the country is insisting that Congress assume? All we know is that in the past men of goodwill, with indefinite authority and fractionalized responsibility have not fulfilled and carried out the function the Nation throught they were carrying out. And to the shock and amazement of the Senate itself, we had not organized ourselves in such a way to carry out the duty, function, and responsibility that we should have had.

The fourth point I make is simply this: Many abuses have been committed by Defense Department agencies. We know, for instance, in NSA, in the question of cable traffic alone we have had abuses that are on the record for all of us to study. From 1947 until May 1975, NSA received from international cable companies millions of cables which had been sent by American citizens in the reasonable expectation that they would be kept private. Many questions could be raised about this practice: Was it necessary to protect the national interest? Was it necessary and was it cost effective? What end result came from all of that cable traffic that was reviewed?

Talk about a make-work project. The PWA was small compared to the make-work that was created by this oversight operation scanning and reviewing, reading and looking at, passing around, making copies of millions of pieces of paper involving private transaction of business. Where is the proof that this has been a cost-effective operation?

Another point I should like to raise is in connection with watch lists. In the late 1960's and early 1970's, various Federal agencies gave NSA names which went into so-called watch lists, names of Americans whose communications were selected for monitoring, without a warrant. Where is the protection to the civil rights of those individuals?

I wonder whether it does not come right down to the fact that NSA operated without a charter.

My point, therefore, is this: should not NSA operate with a charter?

The Church report, under the section on defense, if I recall correctly, indicated that the Senate and Congress should set out in charter form the duties and responsibilities of NSA. Certainly, one of the purposes of this committee would be to establish such a charter and, hopefully, place it in legislation.

Recently, the Senate proposed, and Congress now has adopted, a charter for the Voice of America. It never was a legislated charter. It was always an Executive order, subject, therefore, to interpretation by the executive branch only.

The Senator from Illinois felt very strongly that VOA should have a charter that is in law. The Congress of the United States would have a duty and a responsibility then to see that that law was effectively carried out, not simply subject its executive branch charter. The Senator from Illinois felt the charter was being abused in such a way as to detract from the value of VOA.

Having it in law now clearly enunciates what the rules should be.

NSA likewise carries on a function so vital that a legislated charter should be undertaken.

With respect to Army intelligence, under the guise of quelling civil disorders, Army intelligence gathering covered not only "subversion" and "dissident elements"—and there was no further definition of what "dissident elements" were—but also the civil rights movement, the anti-Vietnam-antidraft movement, and later this was extended to cover "prominent persons" who were "friendly" with the "leaders of the disturbances" or "sympathetic with their plans."

I wonder, Mr. President, whether that is under the charter under which the 5th Army, in Chicago, had dossiers, files, and surveillance over some of our most prominent citizens.

In a newspaper report—and I say a newspaper report only—I discovered, to my shock and horror, that a Member of the Senate, my distinguished colleague from Illinois, ADLAI STEVENSON III, was under the surveillance of the Fifth Army in Chicago. By what right does Army intelligence place surveillance over civilians, particularly Members of Congress? Why? Because they might happen to disagree on a Vietnam war policy? Millions of Americans disagreed with that policy. The distinguished majority leader of the Senate disagreed with that policy. Does that give the Army the right to place them under surveillance?

It is almost as bad as the "plumbers" who wasted I do not know how much taxpayers' money, placing other people under surveillance. I understand, from testimony given to the Watergate Committee, that the senior Senator from Illinois was placed under surveillance by an operator of the "plumbers" who testified that he did not know why he was placed outside my office. He was to record the name of everyone who went in and out, and he said, "I don't know why they picked me. I'm not from Illinois, and I knew virtually no one who went in or out, and I couldn't say it in my report. But I was there for 3 weeks, outside the Senator from Illinois' office, recording, presumably, who goes in and out."

I do not know that their thought was in doing that. Was it their thought to de-

termine the protesters going into the Senator from Illinois' office, to talk to the Senator, who might subvert his kind of thinking?

Heaven knows what goes on in an intelligence operation that is as big as 90 percent of our entire intelligence budget. It is a confidential figure, but it is not in pennies, dollars, tens of thousands of dollars, hundreds of thousands of dollars, millions of dollars, or hundreds of millions of dollars. It is in the billions of dollars, and we know that.

So should there not be a concentrated oversight of this operation? Is it right and proper to exclude 90 percent of the entire intelligence budget and kid the people of this country into thinking that we are setting up an intelligence oversight committee, and then exclude 90 percent of it?

The fifth point I should like to make is that it is not true that national—that is, strategic—intelligence cannot be separated from tactical intelligence, although there is much overlapping. I say this first because both DOD and the DCI and their budget procedures make the clear distinction themselves. So when we say that we cannot separate them, they belie it themselves by having separated it in their budget procedures.

Further, the President, in his executive order on intelligence, has given the DCI clear authority over all national intelligence, thus providing that it can in fact be distinguished from tactical intelligence.

In any case, the proposed new committee merely would have shared jurisdiction with the Committee on Armed Services. Thus, Armed Services will retain its input into all military intelligence legislation and authorization, both national and tactical.

But the citizens of this country and the Congress of the United States will know that that shared jurisdiction in this particular area with the Armed Services Committee, in the case of the FBI, with the Committee on the Judiciary, and with the Committee on Foreign Relations in State Department intelligence, will not mean that the intelligence oversight committee to be established has been relieved of oversight responsibility. It will have concurrent responsibility, and in one committee we can hold 15 members, 17 members—however many members we put on for the 8-year period in which it is now determined they will serve—fully and effectively responsible for oversight.

The intelligence committee has resulted from a great deal of soul-searching, a great deal of earnest negotiation. We feel that an extraordinarily good job has been done. Not a single Member who engaged in those negotiations ever achieved everything he wanted or would have built into the resolution before the Senate. Everyone entered into the spirit of compromise, that everyone had to give up some of his own sacred cows. But in the interest of reaching a broad-based agreement, we tried to arrive at a consensus, and this consensus was arrived at.

Certainly, many important issues were debated. Originally, it was conceived by some Members of the Senate that the intelligence committee should have prior knowledge of any covert activity carried on and, in a sense, should have the right to veto it. After a great deal of deliberation, after hearing many witnesses, the Committee on Government Operations wisely agreed, and the framers of the compromise retained, the provision that provided that information always should be available to the intelligence oversight committee, but that prior approval of activities would, in a sense, make the oversight committee part and parcel of the original decision. How can we exercise oversight if we are a part of the action that has been taken? So it was determined that these activities should be committed to writing and should be signed by a high official. The options that went into the thought process should be committed to writing so that they always could be subsequently reviewed.

The Senator from Illinois made the point in those hearings and in the deliberations at markup that if something were committed to writing, a proposed activity, and someone at high levels had to sign it and authorize it, many, many times, the activity would not even be engaged in. Because, when you put something down in black and white and you analyze it and appraise it, some of these foolish activities that were carried on, that ended up to be on the wrong side of the national interest, would not be entered into in the first place.

But if the Senate, through the oversight committee, actually approved these operations in the first place, how could Congress subsequently have oversight over that activity in which it shared responsibility? How could it then be in a position to criticize or find fault with it?

For these and other reasons, Mr. President, I hope that my distinguished colleagues who are not on the floor today will have an opportunity to look over the RECORD in the morning and, when we vote tomorrow, I hope we can move forward with great dispatch. I trust that the spirit and the principle of the compromise can be achieved in our utimate vote, which I hope will come at the earliest possible time.

Mr. President, I ask unanimous consent that an article dated May 17, 1976, from the New York Times entitled "Military Flouted Civilians' Rights, Senate Unit Says", written by John M. Crewdson, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Monday, May 17, 1976]

MILITARY FLOUTED CIVILIANS' RIGHTS, SENATE UNIT SAYS—INTELLIGENCE AGENTS ACCUSED OF IGNORING LEGAL CURBS IN SPYING ON DISSENTERS

(By John M. Crewdson)

WASHINGTON, May 16.—Military intelligence agents have violated the rights of United States citizens in the agents' investigations of domestic political and protest groups, and in the process have threatened "to violate the traditional and legal restraints which govern the use of military forces in the civilian community," the staff of the Senate Select Committee on Intelligence Activities has concluded.

During the middle and late 1960's, the staff said in a report released today, Defense Department agents, principally those of Army intelligence, penetrated and reported on numerous civil rights and anti-Vietnam war organizations, intercepted those groups' [redacted] communications and cooperated with civilian law-enforcement agencies in monitoring the activities of private citizens.

REPORTS CONFIRMED

The Senate staff termed those activities "improper" and went on to confirm reports published yesterday in The New York Times indicating that the Army has also conducted active surveillance of United States citizens living in West Germany and West Berlin whom it considered to be "threats" to its operations.

Until 1968, according to the Senate staff's report, Army commanders in West Germany had unilateral authority to open mail to and from such individuals and to subject them to wiretaps.

Since then, the West German Government has forbidden the Army to conduct such activities, but the 1968 restrictions do not apply to the American sector of West Berlin where "mail openings and wiretaps continued to be employed against Americans and groups of Americans," according to the report.

FILES ON ALL DISSENTERS

Affidavits from Army Secretary Martin R. Hoffman recently filed in two civil court cases show that Army intelligence officers opened mail in West Berlin as late as 1972, and the affidavits carried the strong impication that such practices were continuing there.

As the Army was called upon with increasing frequency in the early 1960's to respond to civil disorders, the report said, it began what later became a "massive" intelligence collection effort that eventually produced files on "virtually every group engaged in dissent in the United States."

The military's rationale for such surveillance, the staff noted, was that, to enable forces to respond effectively to Presidential requests for assistance in times of civil disorder, it was necessary to learn about the goals of dissident groups.

Although there is no statute authorizing military surveillance of the political activities of private citizens, the report said, the Constitution gives the Federal Government the responsibility of protecting each of the states "against domestic violence."

1971 INQUIRY CITED

The committee staff noted, however, that the Senate Subcommittee on Constitutional Rights, which conducted an extensive investigation of military intelligence activities in 1971, had been "unwilling to imply the authority to conduct political surveillance of civilians from the role assigned by statute to the military in the event of civil disturbance."

In all, the committee staff estimated, 100,000 individuals and a "similarly large" number of domestic organizations were subjected to surveillance by Army intelligence agents "who were young and could easily mix with dissident young groups of all races."

In addition to civil rights protests, such as the 1968 Poor Peoples' March on Washington, and anti-Vietnam war organizations like the National Mobilization Committee, Army agents penetrated a coalition of church youth groups, classes at New York University, a conference of priests convened to discuss birth control and the late Rev. Martin Luther King Jr.'s Southern Christian Leadership Conference.

POSED AS NEWSMEN

While the covert infiltration of such organizations was a principal technique, the report said Army intelligence agents monitored protest marches and rallies by posing as newsmen and by recruiting civilian inform-

ers to work in the agents' behalf, before the defense department's nationwide intelligence collection effort was declared to have been ended in 1971.

In an effort reminiscent of, but narrower in scope than the "Cointelpro" domestic counter-intelligence programs of the Federal Bureau of Investigation, military officers and enlisted men also set out to harass and disrupt attempts of some antiwar groups to organize public demonstrations, the report said.

Among the individuals on whom the army maintained intelligence files, it added, were Dr. King; the late Whitney M. Young, head of the National Urban League; Julian Bond; the Georgia State legislator; Arlo Guthrie and Joan Baez, folksingers; Dr. Benjamin Spock, the child care specialist and antiwar activist; and Senator Adlai E. Stevenson 3d, democrat of Illinois.

"WORST INTRUSION"

The experience of the late 1960's which the committee staff termed "the most intrusion that military intelligence has ever made into the civilian community," resulted in the issuance of new Defense Department directives that presumably eliminated some intelligence activities against United States citizens and sharply curtailed others.

The Senate report pointed out, however, that the 1971 restrictions, while barring the collection of intelligence about individuals "unaffiliated" with the military, excepted from that prohibition individuals or groups that the Pentagon considered "threats" to its operations or security.

Although the committee staff said it had found very few apparent violations of the 1971 directive, it pointed out that the directive was an administrative one, and that "no matter how effective it may have been in the past, the directive can be rescinded or changed at the direction of the Secretary of Defense."

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO VITIATE ORDER FOR VOTE ON CLOTURE PETITION TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for a vote on a petition of cloture to occur tomorrow be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENTS—SENATE RESOLUTION 400

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the amendment to be offered by Senators TOWER, STENNIS, and THURMOND, there be a time limitation of not to exceed 4 hours, the time to be equally divided between the sponsor of the amendment and the manager of the bill; that on one of the Taft amendments, there be a time limitation of not to exceed 2 hours, the time to be equally divided between the Senator from Ohio and the manager of the bill; that on all other amendments, there be a period of not to exceed 1 hour, with the time to be equally divided between the sponsors of the amendment and the manager of the bill; and that on the resolution itself, there be a time limitation of 4 hours under the usual rules of procedure, the time to start immediately.

The PRESIDING OFFICER (Mr. FANNIN). Without objection, it is so ordered.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, the vote on the cloture petition has been vitiated?

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, as the majority leader knows, the entire Illinois delegation will be at Arlington Memorial Cemetery tomorrow for a period of about 2 hours. Will it be possible to have no vote scheduled during that period, and if debate has been finished, that votes be set aside until, say 4'clock tomorrow?

Mr. MANSFIELD. We shall pile up the votes, if need be, in view of the sad circumstance involved.

Mr. RIBICOFF subsequently said. Mr. President, I ask unanimous consent that under the previous consent agreement on S. 400, all motions, appeals, points of order, be limited to 20 minutes, equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That during the consideration of S. Res. 400 (Order No. 728), a resolution to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes, debate on any amendment (except an amendment by Senators Tower, Stennis, and Thurmond, on which there shall be 4 hours debate, and an amendment by Senator Taft, on which there shall be 2 hours debate) shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the resolution, and that debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the resolution: *Provided,* That in the event the manager of the resolution is in favor of any such amendment, debatable motion, appeal, or point of order, the time in opposition thereto shall be controlled by the Minority Leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said resolution shall be received.

Ordered further, That on the question of agreeing to the said resolution, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Majority and Minority Leaders, or their designees: *Provided,* That the Senators, or either of them, may, from the time under their control on agreeing to the said resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, on my own initiative, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 o'clock tomorrow morning; and that no later than the hour of 11 o'clock tomorrow morning, the Senate will return to the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, I wish to speak to the pending Stennis-Tower amendment.

The PRESIDING OFFICER. Will the Senator from Minnesota suspend?

Who yields time?

Mr. MONDALE. Mr. President, I ask the distinguished floor manager if he will yield to me such time as I may require—15 minutes?

Mr. RIBICOFF. I am pleased to yield 15 minutes to the Senator from Minnesota.

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The Senate continued with the consideration of the resolution (S. Res. 400) to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

Mr. MONDALE. Mr. President, the Stennis-Tower amendment would delete from the jurisdiction of the oversight committee which we seek to create approximately 80 percent of the Nation's intelligence budget. The overwhelming proportion of the activities of this Nation in the intelligence field would be outside the jurisdiction of the new committee. The amendment proposes to delete from the jurisdiction of the new committee all of the Defense intelligence activity. That would mean the Defense Intelligence Agency, the National Security Agency, and joint programs with the CIA. It seems to me that the arguments for turning that amendment down and including these activities within the jurisdiction of the new committee under the terms of the Cannon resolution are overwhelming. First of all, the abuses that we have uncovered in the 15 months of the work of our committee have shown that there have been as many abuses committed by these agencies as by the agencies that would remain within the jurisdiction of the new committee, the CIA and the FBI.

The DIA played a role in covert action. One of the classic examples of misguided, counterproductive, and, I think, inexcusable covert actions that we found was so-called Track 2 in Chile. Track 2 was the strategy ordered personally by the President, under instructions to go around the institutions that exist for intelligence decisions in this country, and the CIA going directly to the DIA operatives in Chile. The idea behind Track 2 was, stripped to its essentials, to depose Mr. Allende, who was the duly elected President of Chile. One of the things that was decided in Track 2 was that a General Schneider, who was a constitutionalist and therefore refused to cooperate in the attempt to overthrow President Allende by a coup to be removed because he insisted on complying with the constitutional requirements of

the government that he took an oath of office to uphold.

Of course that effort, although we had not intended it that way, led indirectly to the assassination of General Schneider because, after being abducted, General Schneider was assassinated.

That one example, it seems to me, stands as a classic example of a misguided, poorly conceived, immoral and counterproductive tactic of the kind that shames this country and is counterproductive in terms of our relationship not only with Chile, our responsibility indirectly for the present repressive and terrorist administration which runs Chile, but also has humiliated us in the eyes of Latin America.

Another agency that would be exempt under the proposed amendment is NSA, the National Security Agency. There was a separate report put out by our committee on the activities of NSA. It was this agency that had a watch list on 1,600 innocent Americans, and established an operation called "Shamrock," which read all of the cable traffic out of the city of New York, none of it complying with the requirement for a court warrant.

Mr. President, in addition to the report put out by the committee, there was in this Sunday's New York Times Magazine an article entitled "Big Ear or Big Brother?" by David Kahn, spelling out the broad range of abuses interfering with constitutional and legal rights of the American people conducted for several years and with practically no limits whatsoever by the National Security Agency.

I ask unanimous consent that that article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The New York Times Magazine
May 16, 1976]

BIG EAR OR BIG BROTHER?

(NOTE.—David Kahn, assistant professor of journalism at New York University, is the author of "The Codebreakers.")

(By David Kahn)

Room 6510 at the State Department is a warren of windowless offices with a special cipher lock on the door. Scrambler teletypewriters, shielded by special walls so that none of their radiation can escape, tick out a stream of material. Another door bars an inner area to all but perhaps 5 percent of the officials at State. This is the LDX room—long-distance Xerox. Here, the scourings of the globe's electronic environment flood in.

The environment is heavy with traffic—the *didahdidah* of Soviet Army radiograms in code or in clear; the buzzings of foreign air-defense radars; the whines of high-speed radio-teletypewriter circuits carrying diplomatic dispatches; the bleeps of missile telemetry; the hums of the computer-data links of multinational corporations; the plain language of ordinary radio messages; the chiming sing-song of scrambled speech. Moving on these varied channels may be Soviet orders to transfer a regiment from one post to another; Chinese Air Force pilots complaining during a practice flight about deficiencies in their equipment; Saudi Arabian diplomats reporting home from a meeting of OPEC. Tens of thousands of such messages are intercepted daily around the world and beamed to a complex at Fort Meade, Md., for decoding and relaying to the State Department and, simultaneously, to the White House, the Defense Department and the C.I.A.

The tall, bespectacled Air Force general sat down behind a table in the high, colonnaded Caucus Room of the Old Senate Office Building. Television focused its dazzling lights upon him and recorded his gestures. Two business-suited aides pulled up their chairs on either side of him. Before him sat the members of the Senate's Select Committee on Intelligence. A gavel banged, and the hearing began.

In appearance, the event resembled the start of thousands of Congressional hearings. What distinguished this one, last Oct. 29, was that, for the first time, the head of the largest and most secretive of all American intelligence organs had emerged from obscurity to describe some of his agency's work and respond to charges that it had invaded Americans' privacy. The big officer was Lieut. Gen. Lew Allen Jr., current director of the National Security Agency. N.S.A. is America's phantom ear. And sometimes it has eavesdropped on the wrong things.

In addition to sucking up and disgorging its daily load of intercepts from abroad, the N.S.A. had improperly eavesdropped on the conversations of many Americans, such as the antiwar protesters Benjamin Spock and Jane Fonda and the Rev. Ralph Abernathy, successor to Dr. Martin Luther King Jr., current director of the National Bureau of Narcotics and Dangerous Drugs and other Government agencies, its vast technological capabilities had invaded the domestic field, which they were never intended to do. The committee wanted to know about an N.S.A. activity dubbed the "watch list."

General Allen testified that, in the early 60's, domestic law-enforcement agencies asked the N.S.A. for information on American citizens traveling to Cuba. The assignment, he said, was reviewed by "competent external authority"—two Attorneys General and a Secretary of Defense. All approved it, and the idea of using the N.S.A. for such purposes spread rapidly through the Government. The drug bureau submitted the names of 450 Americans and 3,000 foreigners whose communications it wanted the N.S.A. to watch. The F.B.I. put in a list of more than 1,000 American and 1,700 foreign individuals and groups. The Central Intelligence Agency, the Defense Department and the Secreta Service also submitted watch lists. Altogether, General Allen said, some 1,650 American names were on the lists, and the N.S.A. issued about 3,900 reports on them.

But all this is over, he said; he personally abolished the "watch list" when he took over the agency in 1973.

The general's assurance did little to overcome the committee's overall concern—and that of many other Americans. For both prior to and since that hearing, disclosures in Congress and elsewhere have indicated a multifaceted practice of using the N.S.A. in ways that threaten American freedoms. For instance:

The N.S.A. persuaded three major cable companies to turn over to it much of their traffic overseas. It was partly through this operation, code-named Shamrock, that the N.S.A. complied with the "watch list" assignment. At one office, the N.S.A. man would show up between 5 A.M. and 6 A.M., pick up the foreign messages sorted out for him by company employees (who were said to have been paid $50 a week for their cooperation), microfilm them and hand them back. When messages began to move on tape, the N.S.A. got them in that form. The agency took some 150,000 messages a month, 90 percent of them in New York, and thousands of these were distributed to other Government bodies. Congress got wind of Shamrock, however, and a year ago, after 28 years and millions of private telegrams, Secretary of Defense James R. Schlesinger had to terminate the operation.

A previous N.S.A. director, co-signed the notorious plan of White House aide T[illegible] C. Huston to penetrate organizations considered security threats by the Nixon Administration. The agency furnished Huston with several suggestions; one of them seems to have been to let the N.S.A. eavesdrop on domestic American communications. Huston conceded that the plan would use "clearly illegal" techniques. But the N.S.A. has acknowledged that it "didn't consider . . . at the time" whether its proposal was legal or not. The Huston plan was never implemented, but, said the Senate Watergate Committee, the "memorandum indicates that the N.S.A. D.I.A. (Defense Intelligence Agency), C.I.A. and the military services basically supported the Huston recommendations."

Former President Nixon acknowledged in a recent deposition to the Senate Intelligence Committee that he had used the N.S.A. to intercept American nonvoice communications. He said he wanted to discover the source of leaks from the staffs of the National Security Council and the Joint Chiefs of Staff.

The agency is said to have passed reports on what prominent Americans were doing and saying abroad directly to Presidents Johnson, and Nixon. Once, for example, the agency informed Johnson that a group of Texas businessmen involved in private negotiations in the Middle East had claimed a close relationship with him to improve their bargaining position.

Two Stanford University computer scientists have recently accused the N.S.A. of promoting its own interests at the expense of the public's in a standard cipher proposed by the Government for computer networks. At issue is the key that would afford secrecy between pairs of users. The scientists a[illegible] cuse the N.S.A. of maneuvering to get [illegible] dustry to accept a key that, while too com[illegible] plex for rival businesses to try to solve would be susceptible of cracking by the N.S.A.'s superior capabilities. That would permit the agency to raid the economic data flowing into the computer network, and to penetrate personal-data files enciphered for security.

In the whole area of economic intelligence, N.S.A. interception has been developing rapidly. The House Intelligence Committee, in its report, expressed concern over the resultant "intrusion . . . into the privacy of international communications of U.S. citizens and organizations."

At the root of General Allen's appearance before the Senate Intelligence Committee, and of the entire Congressional investigation of the N.S.A., lay the question: Who authorized these abuses? What was there about the agency's legal basis that permitted it to invade privacy at the request of other Government agencies—and with so little qualm? Was the final authority the President's—and, in that case, was he not armed with powers to play Big Brother beyond the worst imaginings of the recent past?

"[The N.S.A.'s] capability to monitor anything . . . could be turned around on the American people," said the committee's chairman, Senator Frank Church. "And no American would have any privacy left. There would be no place to hide. If a dictator ever took charge in this country, the technological capability that the intelligence community has given the Government could enable it to impose total tyranny."

How essential to the nation's security is the National Security Agency? How can a balance be struck between the legitimate needs it serves and the freedoms it h[illegible] shown itself capable of undermining? H[illegible] did the whole problem originate?

Signals intelligence reaches back in America to the founding days of the Republic. But it matured only in World War I, with the widespread use of radio. During World War II, it became the nation's most important means of gathering secret information. When the Iron Curtain clanged down, the United States wanted to preserve these extraordinary capabilities. In 1952, President Truman issued a directive transforming the Armed Forces Security Agency, the interservice arm for signal intelligence, into the National Security Agency, serving all branches of government.

Therein lay the first pitfall. Unlike the C.I.A., in which all intelligence functions were centralized in 1947, the N.S.A. was not formed by act of Congress, with a legislative charter defining the limits of its mission. The cryptologic empire has only a Presidential directive as its legal base. So shadowy has been the N.S.A.'s existence, however, that the text of the seven-page directive has never been made public.

This obsession with secrecy is well reflected by the agency's headquarters. At the edge of Fort Meade, just off the Washington-Baltimore Parkway, it is ringed by a double chain-link fence topped by barbed wire with six strands of electrified wire between them. Marines guard the four gates. Inside lie a modern, three-story square-A-shaped structure and, within its arms, a boxy nine-story building. From the latter, in particular, emanates a chill impersonality, quite different from the flashiness of C.I.A. headquarters in McLean, Va. Topped by a frieze of antennas, the only sign of life a plume of white steam rising from the roof, the afternoon sun gleaming off its glassy facade, it stares bleakly south, toward Washington, the White House, and the centers of national power.

All around sprawl the vast macadam parking lots for the 20,000 employees who work there. They have passed some of the most rigorous security tests in the Government, but they may be fired merely on a suspicion. They are enjoined from talking even to their spouses about their work. And inside the building they are physically restricted as well. The colored badge each of them wears tells the patrolling Marine guards into which areas they may and may not go.

Their work is of two kinds. Some of them protect American communications. They devise cryptosystems. They contract for cipher machines, sometimes imposing performance standards so high and tolerances so close that suppliers quit in despair. They promulgate cryptologic doctrine to ensure that the procedures of, say, the State Department do not compromise the messages of Defense. But the main job is SIGINT—signal intelligence—listening in. To do all its work, the N.S.A. alone spends about $1 billion a year. The agency also disposes of about 80,000 servicemen and civilians around the world, who serve in the cryptologic agencies of the Army, Navy and Air Force but stand under N.S.A. control, and if these agencies and other collateral costs are included, the total spent could well amount to $15 billion.

The N.S.A.'s place on the organizational chart is ambiguous: It is "within but not a part of" the Defense Department. The Secretary of Defense merely serves as the "executive agent" of the President in carrying out the functions assigned to the agency. It is not subordinate to the C.I.A., but its director sits on the United Sates Intelligence Board, the intelligence community's steering committee, whose chairman is the Director of Central Intelligence—the C.I.A. chief. The N.S.A. director is always a three-star general or admiral. (The deputy director must be a career cryptologist.) The President appoints the director, rotating among the three services, which get 85 percent of the output. The seven directors before General Allen held the job for an average of three and a half years each.

The agency's orders—Truman's 1952 directive—are to "obtain foreign intelligence from foreign communications or foreign electronic signals," General Allen is said to have told the House Intelligence Committee. The agency can be remarkably successful.

"Most collection agencies give us history. The N.S.A. is giving us the present," said Lieut. Gen. Daniel O. Graham, a former head of the Pentagon's Defense Intelligence Agency (D.I.A.). "Spies take too long to get information to you, [satellite] photographs as well. N.S.A. is intercepting things as they happen. N.S.A. will tell you, "They're about to launch a missile. . . . The missile is launched' We know in five minutes that a missile has been launched. This kind of intelligence is critical to the warning business."

During the Strategic Arms Limitation Talks (SALT) of 1972, the N.S.A. reported on the precise Soviet negotiating position and on the Russian worries. "It was absolutely critical stuff," said one high intelligence officer. The information was passed back quickly to the American diplomats, who maneuvered with it so effectively that they came home with the agreement not to build an antiballistic missile defense system. "That's the sort of thing that pays N.S.A.'s wages for a year," the officer said.

In 1973, large antennas appeared in satellite photographs of Somalia, which lies east of Ethiopia on the Indian Ocean. They looked like Soviet models. But not until the N.S.A. had learned where the antennas' signals were going to and coming from was the Government certain that the Russians, who had been kicked out of Egypt, had moved their military advisers into Somalia in force and were controlling their warships in the Indian Ocean from there.

Examples like these made General Allen's task a little easier when he appeared before the Senate Intelligence Committee. Senator Walter F. Mondale, the Minnesota liberal, told the general, "The performance of your staff and yourself before the committee is perhaps the most impressive presentation that we have had. And I consider your agency and your work to be possibly the single most important source of intelligence for this nation."

Senator Church concurred. "We have a romantic attachment to the days of Mata Hari that dies very hard. The public has the impression that spies are the most important source of information, but that is definitely not so. The more authoritarian the Government being penetrated, the less reliable the information derived from secret agents. In the Soviet Union and other Communist countries, the penetrations are likely to be short-lived and the information limited. But information obtainable through technical means constitutes the largest body of intelligence available to us, except by overt means."

And, he might have added, the most reliable. It is free of the suspicion that blights a spy's reports: Is he a double agent? Photographs from satellites also provide data as hard as can be, but, as Schlesinger once remarked, "nobody has ever been able to photograph intentions."

On the other hand, communications intelligence is far more easily jeopardized than other forms of information gathering. If a Government merely suspects that its communications are compromised, it does not have to hunt down any spies or traitors—it can simply change codes. And this will cut off information not from just one man but from a whole network. That is why the Government is so hypersensitive to any public mention of the N.S.A.'s work. When President Ford last September refused to send classified material to the House Intelligence Committee after it made public four apparently innocuous words—"and greater communications security"—it was because of fears that the words would reveal to the Egyptians, to whom they referred, that the United States had pierced deeply enough into their communications to detect important changes. When last February he invoked executive privilege for private firms to keep them from furnishing information to a House committee looking into Government interception of private telegraph and teletypewriter messages, it was also for fear of compromising N.S.A. procedures.

In doing its work, the agency doesn't just tune up its receivers and go out hunting for codes to break. It gets its assignments from other elements of the Government. They tell the United States Intelligence Board what information they need that the N.S.A. can probably provide. After board approval, the Director of Central Intelligence levies the requirements upon the N.S.A. Typical assignments might be to locate and keep track of all the divisions of the Chinese Army, to determine the range and trajectory of Soviet ICBM's, to ascertain the characteristics of radars around East Berlin. In all of these, the first step is to seek out the relevant foreign transmissions.

Some of the intercepts come from N.S.A. teams in American embassies. The team in Moscow has been spectacularly successful—at least before the Russians began flooding the building with low-intensity microwave radiation. It had picked up the conversations between Soviet leaders in their radiotelephone-equipped automobiles and other officials in the Kremlin.

More intercepts come from special satellites in space called "ferrets." Swinging silently over the broad steppes and scattered cities of the Communist world, or floating permanently above the golden deserts and strategic gulfs of the Middle East, these giant squat cylinders tape-record every electric whisper on their target frequencies. These they spew out upon command to American ground stations.

Most radio intercepts come from manned intercept posts. Some of these are airborne. The Air Force patrols the edges of the Communist bloc with radio reconnaissance airplanes, such as the supersonic SR–71, the EC–135, and the EC–121, which carries a crew of 30 and six tons of electronic equipment. These planes concentrate not on communications intelligence (COMINT) but on the second branch of signals intelligence—electronics intelligence, or ELINT.

ELINT plays an important role in modern war. Suppose the Air Force were to send a bomber force against Moscow, Soviet radars would detect, the force and report its range, direction and speed, enabling their fighters to attack. To delay this, the Americans would have to jam the radars, or "spoof" them—i.e., emit counterfeit pulses that would indicate a false position and speed for the bombers. But to to do this, the Air Force would first have to know the frequency, pulse rate, wave form and other characteristics of the Russian radars. That explains why, in fiscal 1974, according to a report of the Center for National Security Studies in Washington, the Air Force flew at least 38,000 hours of ELINT flights—better than a hundred hours a day—dissecting radar signals with oscilloscopes and other electronic means. The game is not without its risks. No nation leaves all its radars turned on all the time. So the planes sometimes dart toward the country's territory. They hope the target will turn on its more secret radars. The danger, particularly at a time of international tension, is that the target will take the tease for the real thing and start World War III.

Other N.S.A.-directed posts lurk in the depths of the sea, aboard submarines in the Navy's Holystone program. This seeks, among other things, to "fingerprint" the acoustics of Soviet missile submarines. Aboard the Holystone submarine Gato, when it collided

with a Russian sub in the Barents Sea in 1969, were eight sailors working for the Navy's N.S.A.-related security group. The Navy also used to have nine noncombatant surface ships collecting signal intelligence. But after the Liberty was strafed by Israeli forces during the Six-Day War of 1967 and the Pueblo was captured by the North Koreans, it decommissioned this mode.

The vast majority of the manned posts are fixed on the ground. They ring the Soviet Union and China—clusters of low huts huddling on a dusty plain or in the foothills of some remote Karakoram. In Turkey, they nestle close to the Russian underbelly. The post at the Black Sea port of Sinop—the ancient Sinope, which centuries ago colonized the shores of the Euxine—strains to hear Soviet voices. At Okinawa, the antenna field cobwebs a mountainside.

But much of the interception is done by servicemen. Earphones clamped to their heads, they hear the staccato of Russian Morse: One Soviet Army post reports the movement of half a dozen trucks to another. Other messages are in cipher. On a voice circuit, soldiers can be heard talking on maneuvers.

During moments of tension, the routine changes. Transmitters will vanish from their usual points on the dial. Station call signs will cease following their normal pattern of changes. Yet this is when information is most needed. The monitors hunch over their radio sets as they hunt up and down the frequency spectrum for their target transmitter. They can recognize him by peculiarities in sending or by the tone of his transmitter. One may sound like dowdy-dowdow, another like doodee-doodee. One may sound as if he's sending from inside a can; another may let his frequency slide up two or three kilohertz during a message.

They type out their intercepts on four-ply carbon paper and pass them back to the analysts. These men graph message routing to deduce organizational relationships. They monitor traffic volume for an upsurge that might indicate unusual activity. They extract from the message content indications of equipment capabilities, unit morale, names and characteristics of commanders. And they send the messages in cipher back to the cryptanalysts.

These are the aces, the shamans, of the communications intelligence business. They are the descendants of the ruffed divines and mathematicians who broke codes in curtained, candle-lit black chambers to further the grand designs of their absolute monarchs. The N.S.A.'s modern Merlins work in large open spaces filled with rows of gray steel desks. They pore over green-striped sheets, tap on computer terminals print letters with colored pencils in rows and columns on cross-ruled paper, sip coffee, confer. Their successes become the agency's most jealously guarded secrets.

They succeed, however, mainly with the ciphers of third-world countries and with the lower-level ciphers of major powers. Underdeveloped nations have neither the money nor the expertise to secure their messages from American—and Russian—exposure. Anyhow, they mainly want to keep things secret from their neighbors—Pakistan from India, Egypt from Israel, Argentina from Chile. So they buy commercially available cipher machines. But N.S.A. cryptanalysts, backed up by probably the largest concentration of computers under one roof in the world, some of them perhaps a generation or two ahead of any others in existence, can often beat these.

The major powers, on the other hand, use machines to generate ciphers so strong that, even given a cryptogram and its plaintext, and all the world's computers of this and the next generation, a cryptanalyst would need centuries to reconstruct the cryptosystem and use the reconstruction to read the next message. The N.S.A., in other words, cannot get the most desirable communications intelligence—the high-level messages of the Soviet Union and Communist China. (The SALT coup was partly the result of a Soviet enciphering error.) Worse, the area in which cryptanalysts may expect success is shrinking. The main reason is the declining cost of computation. This is falling by 50 percent every five years; the most obvious example is the price of pocket calculators. For the same amount of money as it spent five years ago, a nation can buy a cipher machine today with double the coding capacity. But doubling the coding capacity squares the number of trials the cryptanalyst has to make. Very quickly this work rises beyond practical limits.

So the N.S.A. asks for help. The F.B.I. burglarized embassies in Washington for it. The C.I.A. has subverted code clerks in foreign capitals: It once offered a Cuban in Montevideo $20,000. In 1966, it bugged an Egyptian code room to pick up the vibrations of the embassy's cipher machine. The N.S.A., which could not cryptanalyze this machine, though it was commercially available, analyzed the recordings, revealing the machine's settings—and hence the messages. The C.I.A.'s most spectacular assist came in 1974, when it spent $350 million in an unsuccessful secret effort to raise a Soviet submarine from the depths of the Pacific, with missiles and cipher machines intact.

In Room 6510 at the State Department, the intercepts come in on white sheets of paper bearing the heading "To Secretary of State from DIRNSA [Director, N.S.A.]." Several lines of gibberish indicating the distribution are followed by the text of the intercept, unscrambled on the spot. R.C.I. officers (for "research—communications intelligence"), one for each geographic area, insert the new material into fat loose-leaf binders and pull out the old. Once a week or so, the country directors mosey on down to Room 6510 and leaf through the file to keep current with their areas. If something urgent comes in, the R.C.I. officer calls the country director, who comes right down. Daily, an R.C.I. officer conceals the more important intercepts under black covers (the C.I.A.'s color is red) and carries them in a briefcase to the several Assistant Secretaries of State.

Dramatic intercepts are rare. And when they come, they seldom have much impact. Once, an intercept arrived suggesting that a *coup d'état* could take place in a certain country in a matter of hours. It was rushed to U. Alexis Johnson, then Under Secretary of State. He read it, nodded, said, "That's interesting," and handed it back to the R.C.I. officer. There was simply nothing he could do about it.

The vast majority of the intercepts are low-level routine. At State, they deal largely with the minutiae of embassy business, such as foreign messages dealing with Soviet visa requests to foreign governments, reports of foreign ambassadors about meetings with American officials, foreign businessmen's orders. At Defense, they may include foreign ship locations, a reorganization in a Soviet military district, the transfer of a flight of Iranian jets from Teheran to Isfahan. Nearly all come from third-world countries. Usually they are of secondary interest, but sometimes their importance flares: Korea, the Congo, Cuba, Chile. And since these countries are spoken to by the major powers, their messages may carry good clues to the major powers' intentions. (This was another of the sources for the SALT intelligence.)

The quantity is enormous. In part this reflects the soaring increase in communications throughout the world. In part it marks a shift to the more voluminous peripheral sources, such as observing message routings, to compensate for the growing difficulty of cryptanalysis in areas of central interest, such as Russia and China. Unfortunately this overwhelming volume can stifle results. In late September 1973, just before the start of the Yom Kippur War, "the National Security Agency began picking up clear signs that Egypt and Syria were preparing for a major offensive," the House Intelligence Committee reported. "N.S.A. information indicated that [a major foreign nation] had become extremely sensitive to the prospect of war and concerned about their citizens and dependents in Egypt. N.S.A.'s warnings escaped the serious attention of most intelligence analysts responsible for the Middle East."

"The fault," the committee concluded, "may well lie in the system itself. N.S.A. intercepts of Egyptian-Syrian war preparations in this period were so voluminous—an average of hundreds of reports each week—that few analysts had time to digest more than a small portion of them. Even fewer analysts were qualified by technical training to read raw N.S.A. traffic. Costly intercepts had scant impact on estimates."

If N.S.A. failed in this major test, how does it do in its day-to-day operations?

A survey at the State Department showed that most desk officers felt that while the N.S.A. material was not especially helpful, they didn't want to give it up. It made their job a little easier. A former top State Department official was always glad to see the man with the locked briefcase. "I got some good clues on how to deal with various countries," he said, "and I quickly learned which ambassadors I could trust and which not."

At the Defense Department, most officials said they appreciated the help they got from the agency. "D.I.A. relies very heavily on N.S.A.," said General Graham, "because D.I.A. puts out a warning document to American units all over the world and to Washington, and whether the warning lights are green or amber or red comes mostly from the N.S.A."

For policy makers, naturally, the more information the better. But is this marginal advantage worth the billions it costs in a nation that has so many other vital human needs unfulfilled? Put that way, the question poses a false dilemma. The money for health and housing and education can—and should—come from elsewhere. It is on the vastly larger arms budget, on atomic overkill and obsolescent nuclear aircraft carriers, that the nation overspends. Intelligence is far cheaper and usually saves more than it costs. In general, with its record of some failures and some successes, and the incalculable potential value of its sleepless watch around the world, the N.S.A. is worth the money the nation spends on it.

The real question for a nation reappraising its intelligence community is not one of financial priority but of legal basis. There is no statute prohibiting the N.S.A. from activities that encroach on Americans' constitutional rights. In response to criticism, President Ford recently issued an executive order on intelligence that seems to forbid the N.S.A. from intercepting American communications—but also seems to leave a loophole. Even with the best of intentions, however, that cannot be an adequate approach. For what one President can order another—or even the same—President can abrogate or amend.

The final responsibility for all those improper activities by the N.S.A. was, in each case, the President's, even though it remains unclear whether all of them were reported to the Oval Office. That alone should illustrate the hazards of an arrangement under which the powers of an intelligence service derive not from Congress but from the White House. As a basic reform, Congress should replace Truman's 1952 directive with a legislative charter for the N.S.A.

That, in fact, was the view that underlay much of the questioning of General Allen before the Senate Intelligence Committee, and that is the substance of the recommen-

dations on the N.S.A. contained in the committee's recent report on the intelligence establishment as a whole. "The committee finds," said the report, "that there is a compelling need for an N.S.A. charter to spell out limitations which will protect individual constitutional rights without impairing N.S.A.'s necessary foreign intelligence mission." The committee also made specific recommendations designed to prevent a repetition of the known abuses of the past.

The House Intelligence Committee, in its own report, came to the same basic conclusion, declaring that "the existence of the National Security Agency should be recognized by specific legislation," which should "define the role of N.S.A. with reference to the monitoring of communications of Americans."

There is no question that the National Security Agency, in the words of the Senate committee report, is "vital to American security." In fact, in this nuclear age, when danger-fraught situations can be best handled with knowledge about the "other side," and when many international agreements, such as SALT, are dependent on, say, America's ability to verify Soviet compliance by its own technical means, N.S.A. intelligence, like all intelligence, can be a stabilizing factor in the world.

There is also no question that we need a new statute. No law can guarantee prevention of abuses, especially if lawlessness is condoned in the higher echelons of government, and the C.I.A.'s charter did not prevent that agency from overstepping its bounds. But a gap in the law is an invitation to abuse. An institutionalized mechanism to seek out violations and punish the guilty can best deter the sort of intrusion that so many Americans fear—and that destroys the very freedom the N.S.A. was created to protect.

Mr. MONDALE. Next, the Army counterintelligence, which would be another agency exempt under this pending amendment, was found spying on innocent Americans, bugging, tapping, and illegally opening mail. That record is also spelled out in the reports of our committee. Some of the early pioneering work in the area of intelligence abuse came as a result of the hearings before Senator Ervin on the Constitutional Rights Subcommittee relating to the abuses of the Army Intelligence Agency against innocent Americans. Thus there is a very rich and broad record that demonstrates that abuse has occurred within the authority and under the jurisdiction of Army intelligence.

Next, the military has provided the backbone for the major paramilitary activities. These are activities which have been carried on in Laos, the Bay of Pigs, in which an attempt is made to suggest that it is not direct U.S. military intervention but which, in fact, have been under our control and direction, often U.S.-trained military personnel who have been, in the jargon of the business, "sheep-dipped." They have been clandestine in their outward marks, but they are, in fact, U.S. military personnel involved in those activities.

Those paramilitary activities occurred outside the Constitution. If you read the Constitution and the declaration-of-war powers contained therein you will find no exception in there permitting military activities run and conducted by the United States except through a declaration of war, and there is no exception in there for such activities if you call them paramilitary. If you did, of course, there would be no constitutional protections at all, and once again another area of abuse, another area of major significance that would be beyond reach of this oversight committee if this amendment is adopted.

The military clandestine intelligence activities are supervised by the CIA. Only half of what the CIA spends comes from its own appropriations. The other half comes out of defense appropriations through transfers or advances, and thus if you controlled only the CIA it would be a simple matter to shift intelligence operations, covert operations, dirty tricks, into agencies not under the jurisdiction of this oversight committee.

Anything the CIA does or the FBI does the military can do and has done. You either have to oversee all of them or, in all likelihood, we will not have had restrained what we are seeking to restrain.

Finally, let us look at the Huston report. The Huston report or the Huston plan is probably the most classic official document of lawlessness ever prepared and signed off by high officers in the history of America. It was approved by the President, it was approved by representatives of every intelligence agency in the Federal Government. On its face it sanctioned a broad range of illegal and unconstitutional activities: reading mail without a court's warrant, contrary to law; black bag jobs; breaking and entering the homes of American citizens, contrary to the fourth amendment; tax returns and a whole range of activities that we have revealed and which were to be officially sanctioned by Presidential private plan, the Huston plan, and the reason I raise this point is that a majority of the participants in the committee, who prepared that plan, were representatives of the military agencies, the DIA, the NSA, Army Intelligence, Navy Intelligence, Air Force Intelligence, and each had a representative on the committee that prepared the Huston plan.

So if what we are trying to do here is designed to try to prevent the recurrence of abuses that threaten American democracy and threaten the accountability for U.S. foreign policy to Congress and to our constitutional system, then the argument is overwhelming that these agencies must be included within the jurisdiction of this new oversight committee.

Moreover, the reason for the oversight committee is not simply to prevent abuses, as important as that is, but to assure that these agencies are acting effectively to defend us. The record is replete with failures on the part of these agencies to effectively defend our interests. For years the CIA and the FBI did not talk to each other at top levels, risking this Nation's defense because of the petty personal disputes. No one knew about it because there was no oversight.

For years there had been private talks within the Defense Department about the effectiveness of the DIA on which we spend millions and millions of dollars. The Murphy Commission recommended that it be terminated; the House committee, after studying it, recommended that it be terminated, and we understand there is a good deal of private talk in the Defense Department toward that same end, because it has not proven to be as effective and to serve the purpose it was supposed to serve in helping to protect this country.

For many years there was a paranoid attitude in the CIA that viewed possible agents that we could work with or possible leads as all plants presented by the Russians. Maybe and undoubtedly many of them were, but not all of them, and very few, if any, were pursued.

That shows, in my opinion, the need for oversight not only to prevent abuses but to make certain that these agencies are performing effectively to defend our country against real dangers.

If we do not have oversight of the military agencies, I think we have largely failed—largely failed in our effort.

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Who yields time?

Mr. MONDALE. May I have 5 more minutes?

The PRESIDING OFFICER. The Senator is recognized for 5 more minutes.

Mr. MONDALE. It seems to me that there are three or four fundamental principles that justify and demand oversight of all of these agencies.

First of all, if there is one thing we have learned from this long study, it is that we must be very concerned about how human nature works when we clothe people with secret power, particularly with great secret power. If we are not careful, it will almost inevitably lead to abuse.

Recently, the Director of the Bureau, Mr. Kelley, said, "Well, the real problem is that in Hoover's twilight years he was acting foolishly," and I think that is true. But I do not think the villain theory answers our question because many of these things occurred before Mr. Hoover's twilight years. They were committed by many people in the Bureau and in these other agencies, other than Mr. Hoover.

Mr. Hoover does not explain the CIA; he does not explain the DIA; he had nothing to do directly with assassinations, but many of the abuses that we have seen here were not the contribution of Mr. Hoover.

Mr. Hoover had little or nothing to do with the bomber raids in World War II.

What we have seen, if we look at the history of secret intelligence agencies, is that if we are not careful and if we do not have oversight, we can expect, based on the record, that human nature is such that those who wield this power will find it very hard to restrain themselves from abusing it. It is hard to refuse to play God when we have the right to do it outside the law and protected by censorship.

That is why, above all, we need what Madison once called auxiliary precautions.

I do not think it is any insult to those now running these agencies to say that we need that oversight and that we cannot accept their argument that, "we are different people than those other people who did wrong, but we don't do wrong."

I do not think that answers the question. I do not think the experience and history justifies it.

I often like to quote Madison's Fed-

eralist Paper No. 51, which I think underscores the need for what he called "auxiliary precautions."

He said this:

> If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.

and that he said

> Experience has taught mankind the necessity of auxiliary precautions.

I think that is what this record shows: experience has taught us that we need auxilitary precautions against abuse, particularly the abuse of power in the intelligence field which, by necessity, operates in secret.

Secrecy, yes. Unaccountability, no. That is why we simply must have full jurisdiction in this oversight committee.

It seems to me that, when we strip the arguments down to their essentials, what many people are really arguing in these agencies is that this Nation cannot defend itself unless it can do so with the protection of the censorship and unless it can from time to time proceed illegally. In other words, in order to defend this country, it is necessary to do something that the framers of this country found abhorrent, namely, to have censorship——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MONDALE. May I have 5 more minutes, please?

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Yes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. MONDALE. So that we can proceed with secrecy and protect ourselves from the Congress, from the American people, and, second, to have the right to act illegally and in violation of the rights of the American people from time to time in order to defend this country from its real dangers.

I say that is their essential argument, when we get down to it, and certainly the record will demonstrate that time and time again they said almost exactly that, because that would be the only reason for saying that they should have the right to operate in secret and beyond the reach of the Congress.

Why do they want that right if they are operating legally and responsively? What is their fear?

I think the fear is that it would deny them this broad freedom they have had to pursue whatever course they wanted, no matter how illegal or disruptive of constitutional rights it should be.

What we found, if we found anything, is that this Nation can defend itself fully and effectively, as it has for 200 years, within the law.

For some months we have looked through the FBI files; we asked them which dangers they wanted to defend us from. We did not look at logic, we did not look at theory, we looked at real life, and we found out that this Nation can clearly defend itself within the law and within the Constitution from every threat to this country, terrorists, bombers, foreign spies, rioters, civil unrest. We can do all that within the Constitution and within the law.

I want to know what right any of us have, those of us who have taken the oath to uphold the Constitution of the United States, to grant authority to anyone, the President or anyone in his behalf, or ourselves, to take the law into his own hands and in secret and in that fact threaten the constitutional rights and the constitutional system of this Nation.

It is not necessary and it is the most dangerous thing that this Nation can do.

If our study has concluded anything, it is this, that those framers of our Constitution nearly 200 years ago came up with a document that was shrewd and profound in terms of how human nature worked, but shrewd and profound in terms of giving us the full authority we needed. The power we needed to protect us from our dangers at home and abroad, plenty of power, and at the same time to restrain the hand of government, because we do not go beyond that line, beyond enforcing the law, and interfering in the political rights and freedoms of the American people.

It is the most sacred and important line drawn in the Constitution. I cannot think of anything better that we could do to celebrate this Bicentennial and more meaningful than to say that 200 years later we agreed that line is right and in the face of this record we are going to insist these agencies observe the law and to make certain they obey it, they are going to have to report their activities to this Congress, all of them.

Mr. President, I yield the floor.

INTERNATIONAL TRADE COMMISSION AUTHORIZATIONS

Mr. MANSFIELD. Mr. President, in order to keep the calendar clear and to take only a few minutes of the Senate's time, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 776, S. 3420.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3420) to authorize appropriations to the International Trade Commission.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. CURTIS. Mr. President, I fully support S. 3420 which provides budget authorization for the United States Trade Commission. The Finance Committee has approved the amount requested by the Commission for fiscal year 1977 and 1978, and I would like to briefly explain the need for this level of funding.

The Trade Act of 1974 has placed increased responsibilities on the Commission. For example, in fiscal year 1975, about one-third of all Commission resources were devoted to the development of advice to the President on the probable economic effect of trade concessions. Additional work in this area has been necessary this year and more is expected as negotiations proceed. Undoubtedly, the Commission will be asked to furnish additional support to U.S. representatives as negotiations intensify in fiscal year 1977. The new escape clause criteria have resulted in a total of 14 industry investigations in less than a year since the Trade Act's effective date, compared to a total of only 1 such investigation initiated in the previous 21 months. Intensive efforts are being devoted to completion of unfair import practice investigations under the new rules and time limits established by the Trade Act of 1974.

Mr. President, the Commission's present efforts, such as its recent advice to the President on the probable effect of tariff concessions and the generalized system of preferences, its reports on East-West trade, its studies of international commodity agreements and the United States-Canadian automotive agreement, and its series on the competitiveness of the United States and other major trading countries, have greatly impressed the members of the Committee on Finance.

Further, as the multilateral trade negotiations proceed in Geneva the Commission will play an increasingly important role regarding the economic impact of proposed tradeoffs and the Commission must be adequately staffed to carry out this important task.

Mr. President, it is essential that the International Trade Commission remain responsive to the needs of government and the American business community and I strongly urge my colleagues to support S. 3420.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed as follows:

S. 3420

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there are authorized to be appropriated to the International Trade Commission $11,789,000 to carry out its duties and functions during fiscal year 1977.

(b) There are authorized to be appropriated to such Commission $12,036,000 to carry out its duties and functions during fiscal year 1978.

(c) In addition to the amounts authorized under subsections (b) and (c), there are authorized to be appropriated to such Commission such amounts as may be necessary for fiscal years 1977 and 1978 for increases required by law during such fiscal years in salary, pay, retirement, and other employee benefits.

ORDER REFERRING S. 3091 TO COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. TALMADGE. Mr. President, I ask unanimous consent that S. 3091, which was reported on Friday from the Committee on Agriculture and Forestry be

tinue to speak tough words about returning them home, even as they allow refugee "camps" to become refugee "villages" under controlled conditions.

III. Refugee resettlement in the United States

21. In little more than a year, some 131,000 Indochina refugees moved from boats and crowded processing centers to reception areas in the U.S., to sponsors and homes in local communities. By this June 30th, when the parole program comes to an end, the total will reach nearly 143,000.

22. Despite the chaos of the evacuation, and the lack of leadership and direction in the early stages of the resettlement program, substantial progress has been achieved in resettling a majority of the refugees. However, serious problems remain, contrary to optimistic reports from the Task Force.

23. No overall data exists, but all observers agree that unemployment, underemployment, welfare and other problems have generally increased among the refugees—and increased very dramatically in some areas of the United States.

24. A clear indication of the adjustment and integration problems among the refugees can now be seen in their frequent movement from their initial resettlement areas of last year, to new areas. The movement is largely towards the so-called "sun-belt" from the northeast and midwest. The reasons for moving are usually personal—climate, the presence of family or friends elsewhere, better job opportunities, the lack of acceptance in a community, etc.

25. For a significant number of refugees the optimism and hope of last year has faded into feelings of frustration, failure, loneliness and general depression. There are undoubtedly legitimate reasons for this situation, including the state of the nation's economy, lack of resources of many refugees, poor job skills, lack of English language, etc. But these problems have also come from some failings in the President's resettlement program: early pressures to empty the camps at the expense of good resettlement; emphasis on the widest dispersion of refugees, leading to unrealistic resettlement situations; the limited scope of the program; the lack of federal programs available for job training, etc.

26. There are no quick remedies for these problems, and the refugess resettlement program is in a period of transition. So the refugees must try to cope, and officials are still trying to "catch up", even as they talk about phasing out the program.

MISS LAURA JOHNSON

Mr. RIBICOFF. Mr. President, Miss Laura Johnson, who for many years was president of Hartford College for Women, recently retired. Her achievements were many in the fields of education and community affairs. The Hartford Courant, in a recent editorial, commented on her accomplishments.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Hartford (Conn.) Courant, May 14, 1976]

MISS LAURA JOHNSON RETIRES

When a college president retires, it is expected that tributes will outline numerical gains: Acreage added to a campus, how many new buildings were erected and how much the student body grew. All these are evident achievements when reviewing the 33 years spent by Miss Laura Alice Johnson, first as dean, then as president of Hartford College for Women.

But the main concern of Miss Johnson, who retires next month, always has been the broadening of student minds, not particularly their growth in numbers on the campus of the two-year liberal arts college. Widened horizons and expectations for them as persons have been nurtured by Miss Johnson rather than focusing only on the narrower stereotyped role of women.

Indeed, Miss Johnson herself epitomizes that philosophy. When she became the first woman to be named as a director of a Hartford-based insurance company—Phoenix Mutual in 1972—she described that unique honor as "nothing special; not a big thing." Rather she hoped her selection was based on her talent as an individual, not as a woman.

She again became a "first woman who" when in 1974 The Courant asked her to be a member of its Board of Directors. The year before that she became a director of the Greater Hartford Chamber of Commerce. Each honor and its accompanying responsibility has recognized Miss Johnson's distinguished accomplishments not only as an educator but also as a skillful administrator.

She once said, "If a woman is head of the Harvard Crimson, that's newsworthy and it shouldn't be. Women who have a potention for leadership do well to get practice in it."

That potential long has been nurtured by Miss Johnson. Before it was popular she encouraged women to return to college part-time to complete degrees. She founded a career counseling center at the college and an adult lecture series aimed at making education a life-long, continuing pursuit.

Last night Miss Johnson was honored at a $100-a-plate testimonial in honor of her years of service. In her name the money will go to the college. It will help to maintain the rigorous, top-standard higher education of women at Hartford College where Miss Laura Johnson's influence long will be felt in its graduates, as they confidently take their places in the world as persons of talent and potential.

SHIPBUILDING CLAIMS AGAINST THE NAVY: A MANUFACTURED CRISIS

Mr. PROXMIRE. Mr. President, William P. Clements, Deputy Secretary of Defense, has formally notified Congress that the Pentagon is invoking its national emergency powers under Public Law 85–804 to pay over half a billion dollars to two Navy contractors. The two contractors, Newport News Shipbuilding & Drydock Co. and the Ingalls Shipbuilding Division of Litton, have filed $1.4 billion worth of shipbuilding claims against the Navy.

In addition, Mr. Clements says that about $300 million in claims is about to be filed by the Electric Boat Division of General Dynamics. These claims have not yet been received by the Navy.

THE CLAIMS HAVE NOT BEEN FULLY AUDITED

Part of Mr. Clements' argument in support of emergency treatment of the claims, rather than the normal settlement procedures followed by the Navy, is that the claims represent long-standing disputes and therefore must be quickly resolved. The impression has been created that the claims are old and that they have been unresolved for a long period of time.

The facts are that most of Newport News' claims were either filed for the first time or revised this year, and that the backup documentation for Litton's claims has still not been submitted to the Navy.

What this means is that the Navy has still not had a chance to fully audit or analyze the claims. For the Government to pay the claims wholly or in part without a full audit and analysis would be like buying a pig in a poke.

Such an action is objectionable as a matter of principle. The taxpayer should not have to pay for unaudited, unanalyzed claims.

Paying these particular claims before they are fully audited is especially objectionable.

A MANUFACTURED CRISIS

After reviewing the facts and the sequence of events in this matter, I am forced to conclude that the Pentagon is conspiring with the shipbuilders to manufacture a crisis designed to cover up cost overruns and possible false claims that could cost the taxpayer hundreds of millions of dollars.

The facts surrounding the $1.4 billion in claims filed by Newport News and Litton against the Navy show that they are based at least in part on vague estimates, phony assertions and inflated figures.

The facts also show that the timing of many of the claims coincide with pressures applied to get them quickly settled and that the Pentagon is now trying to exempt the contractors from audits of their claims and pay them under a national emergency law.

CLEMENTS PROPOSAL IS FOR A BAILOUT

The Pentagon's purpose seems to be to bail out two defense contractors who hove incurred huge cost overruns because of their own inefficiency and failures to deliver on time.

I am confident that if the claims were thoroughly audited, they would be revealed as largely a mixture of hocum and hot air.

The squeeze play engineered by Clements and the shipbuilders has already resulted in recent provisional payments of nearly $20 million to Litton based on an incomplete analysis of partial information.

Litton asserts that the Navy agreed in a March 1976 meeting to pay the company $50 million in provisional payments. I am informed that Navy officials deny making any such agreements.

SHIPBUILDERS HAVE WITHHELD DOCUMENTATION

Part of Litton's and Newport News' strategy has been to withhold supplying the Navy with the documentation of their claims in order to delay or prevent Government auditors from examining them. Three-fourths of Newport News' $894 million in claims were either filed for the first time or substantially revised this year. Newport News began preparing its claims years ago, sat on them for months after the paperwork was completed, and then dumped most of them in the Navy's lap last February and March.

In January, Clements met personally with J. P. Diesel, president of Newport News, to discuss the claims before most of them had even been filed. Early in February Clements ordered Adm. James L. Holloway, Chief of Naval Operations, to come up with the plan to resolve the claims dispute with Newport News in 30 days. Some of the largest claims had still not been filed.

NUCLEAR CARRIER CLAIM FILED FEBRUARY 1976

Newport News' largest single claim—$221 million for the aircraft carriers *Nimitz* and *Eisenhower*—was filed on February 19, 1976, together with 16 thick volumes of documentation. On February 20, Diesel wrote to the Navy threatening to stop work on other Navy ships unless there was progress toward settlement of its claims.

NUCLEAR SUBMARINE CLAIMS FILED MARCH 1976

Newport News' $92 million claim for the nuclear submarines SSN 686 and SSN 687 was not filed until March 1976. I am informed that Newport News completed its price estimates for this claim in May 1975.

Another curious fact about the SSN 687 and SSN 687 claims is that General Dynamics built four submarines of the same class, in the same time period, in accordance with the same designs. Yet General Dynamics has no significant claims against the Navy for its submarines.

NEWPORT NEWS CLAIMS FILED WITH DISCLAIMERS

Other disturbing facts about the Newport News claims are:

First, the statements accompanying the claims are filled with disclaimers indicating the company would not be able to prove the Navy owes the amounts alleged.

Second, with regard to its $160 million claim on the cruisers CGN 38, 39, and 40, documentation "includes the team's analysis of contemporary documents and working files which might be lost when the project goes tinto final completion stages." The contractor also admits "some errors may have been made" in its estimates, and that the specific impact of what the Navy is alleged to have done "is difficult to identify."

Third, Newport News also admits "some errors may have been made" in its nuclear submarine claim, that its conclusions cannot be proven with certainty, and that it may be evaluated differently by the Government.

Fourth, Newport News refuses to certify its claims although Navy regulations require that contractors certify that their claims are "current, complete and accurate" in a sworn affidavit.

LITTON LHA CLAIM STILL NOT FULLY DOCUMENTED

Litton's claim on the helicopter carrier program—LHA—was originally $270 million in 1972 and was revised upwards three times until it reached the total of $505 million in April 1975.

The Navy rejected Litton's original claim in 1973 on the grounds that it had failed to substantiate its allegations with facts. The Navy did agree to pay Litton $109.7 million for cancellation costs when the LHA program was cut back from nine ships to five ships. Litton appealed the decision to the Armed Services Board of Contract Appeals instead of providing the Navy with supporting facts.

In January 1976, the Navy and Litton agreed that the contractor would withdraw its appeal, begin documenting the LHA claim, and resume negotiations after the Navy examined the backup data. Litton's documentation began arriving in March, enabling the Navy for the first time to begin analyzing the facts behind the claim. In the latter part of March, Secretary Clements pulled the rug out from beneath the Navy by deciding the Government should provide financial relief to Newport News and Litton through its national emergency powers.

EARLIER LITTON CLAIM UNDER INVESTIGATION BY JUSTICE DEPT.

Among the disturbing facts about Litton are the following:

First, an earlier Litton claim on a submarine contract was referred by the Navy to the Justice Department for investigation of possible fraud. That investigation is now taking place.

Second, in 1972 Roy Ash, president of Litton, urged the Navy to ask Congress for $1 billion to $2 billion to solve LHA and other shipbuilding problems. Ash said he discussed such a program with a Mr. Conally, who was quoted as saying that it should be positively presented, "on a grand scale—make it bigger than the Congress."

Third, only a fraction of the supporting data to the LHA claim has been submitted to the Navy.

Fourth, Litton's shipyard facility has been proven to be inefficient and poorly managed by a number of Government investigations. This is the same company that ordered a ship cut in half so that when welded back together Litton could claim that it had been built according to modern, modular construction techniques.

THE REAL ISSUE—WHO IS TO BLAME FOR DELAYS AND COST OVERRUNS?

I believe Secretary Clements is a man of high integrity and that he is dedicated to the public interest. I also feel certain that the Navy must share some of the responsibility for the problems in the shipbuilding program. The real issue is, who is to blame for the schedule delays and the cost overruns?

THE CLAIMS MUST BE FULLY AUDITED AND ANALYZED

There is no way to decide this issue until the claims are thoroughly audited and analyzed.

The contractors should have nothing to fear from a Navy audit if the claims are legitimate.

The taxpayer should not have to pay anything for unaudited, unanalyzed and unsubstantiated claims.

Under the law the Senate and the House each have 60 days of continuous session to adopt a resolution disapproving the Pentagon's proposal. Clearly, there is no national emergency justifying the wholesale bailout of the shipbuilding industry proposed by Mr. Clements. It is also of interest that the shipbuilders themselves have not asked for the kind of relief contemplated by the law that is being invoked.

The Senate should reject the Clements proposal.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The PRESIDING OFFICER. The Senate will now resume consideration of the unfinished business, Senate Resolution 400, which will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 400) to establish a standing Committee of the Senate on Intelligence Activities, and for other purposes.

The PRESIDING OFFICER. Who yields time?

The question is on agreeing to the amendment of the Senator from Ohio.

Mr. TAFT. Mr. President, we have before us amendment No. 1645 to the substitute.

An aspect of Senate Resolution 400 that disturbs me greatly is the stipulation that the Select Committee on Intelligence be, in essence, a "B" committee with members limited to an 8-year term of service on the committee.

In fact, as every Senator knows, "B" committees do not always receive the attention from their members which they might deserve. This is fully understandable in terms of the severe constraint on time faced by every Member of the Senate. In recognition of this fact, we usually designate as a "B" committee those committees responsible for areas which, while vital, are perhaps not as vital as certain other areas.

Extending this logic, by designating the select committee as a "B" committee, we state that its area of concern is not as vital as a number of other areas, and that it is recognized that members may not be able to give its committee business as much attention as they would like to. Can we do this in regard to the area of national intelligence? I strongly suggest we cannot. It is clear to me that national intelligence is one of the most critical areas for which the Congress has some responsibility.

In fact, is it not contradictory that the increasing awareness of the importance of the intelligence community has brought us to consider a bill, which implies strongly, by designating the proposed committee as a "B" committee, that the subject in question is comparatively a less important one? I do not think this aspect of the proposed legislation can be considered at all satisfactory or acceptable.

Mr. President, Members, particularly those with the greatest abilities, may tend to seek to avoid such a committee assignment because it is an uncompensated add-on to their primary committee responsibilities. Can we afford to have this committee regarded by the Membership as one of the "dogs," so to speak as far as committee assignments are concerned? Given the tremendously important nature of the national intelligence function, I do not believe we can afford that.

Merely doing the authorized housekeeping work annually, in itself, in my opinion, has to be a very considerable burden upon all Senators who serve on the committee, regardless of the continuing oversight functions which that

committee would be called upon to exercise continually. Not at any particular point in the calendar year, I emphasize to the Senate, but throughout the entire calendar year this intelligence committee would have a responsibility for its oversight function. The experience we have had would indicate that that oversight should continue on a very active basis at all times.

Mr. President, what about those diligent Senators who really become involved with the work of the select committee, as we would hope and expect. Will we not have a situation where other senatorial committee assignments and other necessary work will suffer because of the time and effort devoted to the select committee by such Senators?

Mr. President, this situation is unfair to Senators who rightfully assume responsibilities for work on the select committee as well as to those Senators who must, by virtue of time limitations, pick up the slack created on regular committee assignments.

We want our very best people to serve on this committee, if such a committee is established; and we want them to be motivated to devote their full attention to it. We must provide for an accommodation between the current requirements imposed by section 6(a) of rule XXV and the realities of our demanding work in the Senate in all areas. My amendment, No. 1645, would integrate the select committee into the normal functional work structure of the Senate and thereby recognize the realities of providing for a realistic opportunity to do our very best in this most critical area.

I shall mention one other danger I see involved here. I see it involved in any case, but I think it is multiplied by the approach we are taking with respect to permitting this committee to be an add-on, select, or "B" committee, whatever one wishes to call it. That is the propensity that already exists in many of these areas of Senators to rely on their committee staffs very heavily. That is likely to be magnified in this particular area. What we have here, very possibly, is the building up of a staff of so-called intelligence experts in this area who, unless the Senators have the time, in view of their other committee assignments, to devote a great deal of attention to the work of the committee, are going to become the actual, functional working committee. Instead of having one or more agencies in the executive branch with the final word in the intelligence field, I think we are very likely to see it centralized, as we have it in this committee, in the staff of this committee—a power in itself within the Senate but not subject to as much oversight or control as there should be and really becoming the dominant force in the intelligence activities of the United States.

For all these reasons, my feeling is that it would be far wiser if we, at the very outset, began by regarding this as a "B" committee or a select committee that under rule XXV would have the same requirements as to a limitation on membership as the other "B" and select and joint committees of the Senate have under the second sentence of rule XXV.

For that reason, I recommend the adoption of this amendment.

I reserve the remainder of my time.

Mr. RIBICOFF. Mr. President, the compromise substitute as presently written allows a Senator to serve on the new intelligence committee in addition to any other committee on which he already serves.

The amendment offered by Senator TAFT would change this. It would bar a member of the select committee from also serving on any other "B" committee. Paragraph 6(a) of rule 25 places in the category of "B" committees the following committees:

District of Columbia, Post Office and Civil Service, Rules and Administration, Veterans' Affairs, any permanent select or special committee, any joint committee of the Congress except the Joint Committees on the Library and Printing.

If the amendment offered by Senator TAFT was adopted, any Member going on the new intelligence committee would have to give up his present membership on any of these "B" committees.

The problem with the amendment offered by Senator TAFT is that it will make it more difficult to find a suitable cross-section of the Senate to serve on the committee.

Only 23 Members of the Senate are not now members of a B committee. Of the 40 Senators from whom the 7 at-large Members must be drawn, only 7 are not already on a "B" committee. Thus, it is clear that to get a true cross-section of the Senate, and meet the other membership requirements of the resolution, the leadership will have to find Senators now on other "B" committees willing to give up their present committee assignments.

This may be difficult if the proposed wording were approved in light of the provision in the resolution for rotating membership.

It will be difficult to get a Senator to give up his chance of seniority on another "B" committee to go on the new committee for more than 8 years. At the end of this period, he will have to start all over again on another "B" committee.

The proposed amendment will affect especially hard those Senators initially appointed to the committee who must get off the committee after only 4 years, in order to start the rotation process. These Senators may have to give up all their seniority on another committee to serve just 4 years on the new committee. It could very well be hard to find a Senator willing to do that.

The members of the present Select Committee on Intelligence were able to conduct their work on this committee as an add-on committee on top of all other committee assignments. Members of the new permanent committee could do so also.

It would seem to me that even without the proposed wording, the leadership could certainly take into account the overall problems of a Senator's other obligations in trying to find Senators to serve on the new select committee.

Consequently, and for these reasons, Mr. President, I oppose the amendment offered by the distinguished Senator from Ohio.

Mr. TAFT. I wonder if the distinguished Senator would yield for a moment for a question?

Mr. RIBICOFF. I am pleased to yield.

Mr. TAFT. I should like to know the rationale by which the committee arrived at the decision or the framework for the compromise which subsequently arrived at the decision to have an 8-year limitation on the term. I have not offered an amendment to strike that, but it does seem to me it raises exactly the same point. The Senator, indeed, has made the same point himself. That is that having a committee of this limited length seems to me to militate against members choosing it as a committee on which they want to serve and, thereby, downgrading the committee. If you know you are only going to be on it for 8 years, you cannot build up seniority on it as you might on another committee, and it seems to me you would think a long time before you would agree to go on this committee.

Is the Senator firm and are the compromisers firm in feeling that they want to keep the 8-year limitation of membership?

Mr. RIBICOFF. The Committee on Government Operations at first suggested only a 6-year term. It was our feeling that we wanted to make sure that the Senators on this committee would not get a vested interest in the intelligence community and find themselves apologists for the intelligence apparatus instead of doing their oversight job. When we sat in Senator MANSFIELD's office to try to work out a compromise between the proposals of the Committee on Rules and the Committee on Government Operations, the point was raised by Senator CANNON that he felt that it should be a longer term of years in order to give the members of this committee the necessary special knowledge and insights. Consequently, it was raised to 9 years.

When we started to think about the 9-year term, it became obvious that certain members would have to get off in the middle of a term, and, consequently, an amendment was offered on the floor changing it to 8 years. I think there is a basic wisdom in making sure that no member stays on this committee too long, and thereby loses his interest, becomes indifferent to the problems and an apologist for the intelligence community. That was the rationale behind limiting the term.

I say respectfully to the Senator from Ohio that I have a degree of sympathy for his point of view. It is my feeling that this committee is going to have a lot of hard work to do. It is my feeling that this committee is going to take a considerable amount of a member's time. We have before us a Senate resolution setting up a group of Senators to look over the entire committee structure. I believe they have to report back in the next session of Congress. At that time, the whole alinement of "A" and "B" committee will be gone into. At such time, the select committee will be in place.

I say frankly, I do not seek a place on this committee. If I were a member of

this committee, I would give up a "B" committee on which I serve, because I do not think I could really give the necessary time to the new committee without doing so. But taking into account the thinking of Senator CANNON and Senator BYRD and the fact that we will take a hard look at the entire committee structure at the beginning of the next Congress, it was felt that, because of all these reasons, at this time, we should not insist that any member serving on the select committee would have to give up another committee assignment.

Mr. TAFT. I appreciate the Senator's comments, particularly with regard to the ongoing review of the entire committee structure in the Senate. I am extremely hopeful that something affirmative will come out of that at the next session. The experience of the House today, unfortunately, does not seem to be too sanguine a one as to what is likely to come out of it. I still feel that we badly do need such a study and we badly need some realinement of legislative responsibilities within the various legislative committees. That is one reason why I, frankly, have trouble with the substitute at this point. I thought that the resolution of the matter, in view of that pending study that the Committee on Rules came out with in setting up an oversight committee at this point, really deferring any question of transferring basic authority for legislative purposes to such a committee until we got the report of that study of committee jurisdiction overall, was a sound approach to the problem.

I do wonder, however, in view of what the Senator has indicated, whether perhaps some kind of resolution of the matter might not be arrived at better by at least putting a 2-year limitation or a next-session limitation, a 2½-year limitation, upon the ability of anyone to serve on the Select Committee on Intelligence and not count it, under rule XXV, as a select committee or a "B" committee.

I have given some thought to that consideration and perhaps should want to consider modifying the amendment in that direction if the committee were disposed to think along those lines. Is there any feeling of the committee on that? Has that been discussed?

Mr. RIBICOFF. I do not think that at this time, as manager of the resolution, that I could accept that modification.

I think it is important to have the majority and minority leader, if the Senate agrees to Senate Resolution 400, set up this committee as soon as possible. I have the utmost confidence in Senators MANSFIELD and SCOTT, to structure this committee in a way that takes into account the composition of the Senate and the question of seniority, and makes sure that this committee represents a cross section of the thinking of the U.S. Senate. I should like to give Senator MANSFIELD and Senator SCOTT a free hand.

I cannot talk for Senator MANSFIELD, but I have heard his testimony that he is going to make sure that whoever he appoints will be able to give this committee ample time and attention. If he finds that a Member wants to get on this committee and is so overburdened with other committee assignments that he could not give this committee the attention it deserves, I do not think the majority leader is going to appoint such a man. If it is somebody he wants, I think Senator MANSFIELD could very well talk to such a Member of the Senate and find out if he would be willing to give it up. But I do not want to tie the hands of either Senator MANSFIELD or Senator SCOTT in the makeup of this 15-member committee. If it is going to work, it is going to work because of the setup and the makeup of this first 15-man committee. I should like to give the majority and minority leaders the freedom to make that choice without writing in restrictions in this resolution.

Mr. TAFT. I am not sure that the Senator understands my suggestion, because I do not think it relates to writing in restrictions. I have no restrictions. I think the makeup of the committee at present is probably as good as we can get, although I think, frankly, it ought only to come from the four committees involved and not be a legislative committee. But in view of the direction that the substitute has already gone, I concur rather strongly with the drafters of the substitute to the effect that the selecion ought to be made by the majority and minority leaders. I think that is a move in the right direction and one that I would not want to upset if this legislation is going to become law.

My suggestion rather was that we say that, for the purposes of the second sentence of subparagraph (a) of rule XXV, paragraph 6, membership on the Select Committee on Intelligence would not be taken into account until a date occurring during the first session of the 96th Congress, upon which the appointment of the majority and minority members of the standing committee of the Senate would be initially completed.

In other words, you would have a delay until after the next Congress before the limitation upon holding membership on this committee would be included under the rules as they currently stand, and that is a consideration I would await, and I think it is particularly appropriate in view of one of the matters the Senator has already mentioned, which is the fact that we have an ongoing study of the lineup of our committee structure.

But, it seems to me, if you do not do that, in a way you sort of make a promise which later I feel we are going to be called upon to "grandfather" in of keeping people on this committee for the full 9-year period even though it is an add-on committee, and even though they may already be on their full quota of committees insofar as paragraph 6 of rule XXV is concerned.

So my proposal really was to put this limitation on so that anybody who goes on this committee knows that at the end of the 95th Congress he is going to have to make a choice.

We have done this once before. There is an obvious precedent for it insofar as the Budget Committee was concerned. We have tried that before. It would seem to me this might be a fair way, a workmanlike way, to go about resolving this question.

Mr. RIBICOFF. Again, this will be a permanent rotating committee, and the rotation will go into effect in the original appointments, so it is difficult to see how just deferring your amendment for 2 years resolves the basic difficulty of applying your proposal to a committee with rotating membership.

As I indicated, this provision was worked out in close cooperation between the Rules Committee and the Governmen Operations Committee. At this time I do not feel I could depart in this instance and change the basic compromise that was worked out between the Committee on Rules and the Committee on Government Operations.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. RIBICOFF. Yes.

Mr. PERCY. I think what the Senator from Ohio is attempting to accomplish is comparable to the original thoughts that the Senator from Illinois had. I felt there should be some sacrifice.

As I interpret this amendment, it would require a Member to decide between all of the select committees that he has—these permanent assignments they have on those committees—and he would have to give up those permanent assignments, all of them, for a temporary assignment on this committee.

Taking into account the very difficult compromise position that we finally resolved and worked out, where every single Member receded in that compromise group on some points, I finally receded on this point. I think the Senator from Illinois will stand by that and oppose the amendment.

However, I do commend the Senator from Ohio for grappling with a problem that we wrestled with ourselves in committee and in the conferences that we had. It is not an open-and-shut case either way.

What I am impressed with is that the floor manager of the bill is attempting to provide as much leeway as possible, to have as many Senators from whom we can draw as possible, and then leave it to their conscience and their own judgment as to whether they can handle the load.

I am sure the leadership will impose the requirement that once this responsibility is accepted that it be accepted as a major responsibility.

The old saying is that if you want a job done, give it to a busy man. Now, that would only be altered by saying to give it to a busy person. We know the capacity of some people to handle a tremendous workload, and certainly I think everyone in the Senate will be impressed by the fact that this is a heavy load. Members of the Select Intelligence Committee, the Church committee, recognized the amount that it took out of their lives and the time and the effort that they put in, and we have that as a guideline to go by.

But I still would come down on the side of giving the leadership the maximum leeway, and standing by the compromise. So I would regretfully oppose the amendment.

Mr. TAFT. Mr. President, I [illegible] to

modify the amendment, and I send the modification to the desk.

The PRESIDING OFFICER. The modification will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. TAFT) modifies his amendment to read as follows:

On page 4, line 18, strike lines 18–21 and substitute in lieu thereof:

"(d) Paragraph 6 of rule XXV of the Standing Rules of the Senate is amended by adding at the end thereof the following new subparagraph:

(i) For purposes of the second sentence of subparagraph (a) membership on the Select Committee on Intelligence shall not be taken into account until that date occurring during the first session of the Ninety-Sixth Congress, upon which the appointment of the majority and minority party members of the standing Committee of the Senate is initially completed."

The PRESIDING OFFICER. The amendment is so modified.

Mr. RIBICOFF. Mr. President, I will have to oppose the modified amendment for the same reasons previously stated.

Mr. TAFT. Mr. President, it is my intention to call for the yeas and nays on the amendment, as modified, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TAFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TAFT. Mr. President, I yield back the remainder of my time.

Mr. RIBICOFF. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Ohio, as modified. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr President on this vote I have a pair with the distinguished Senator from Iowa (Mr CULVER). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "aye." Therefore, I withhold my vote.

The PRESIDING OFFICER. The clerk will suspend. Let us have order in the Chamber. Will Senators please clear the well? Senators will please take their seats or return to the cloakroom.

Mr. NELSON. Mr. President, there is still not order in the Chamber.

The PRESIDING OFFICER. The point of the Senator from Wisconsin is well made. The well is not clear. Will Senators please take their seats? Let us have order in the Chamber. The clerk will suspend until we have order.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Iowa (Mr. CULVER), the Senator from Michigan (Mr. HART), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "yea."

The result was announced—yeas 38, nays 50, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—38

Allen	Haskell	Randolph
Bartlett	Hruska	Roth
Bellmon	Kennedy	Schweiker
Bentsen	Laxalt	Scott, Hugh
Biden	Leahy	Scott, William L.
Brock	McClure	Stafford
Curtis	Metcalf	Stevens
Dole	Moss	Stone
Eastland	Nelson	Taft
Fannin	Packwood	Thurmond
Garn	Pastore	Tower
Griffin	Pell	Young
Hansen	Proxmire	

NAYS—50

Abourezk	Glenn	McIntyre
Beall	Gravel	Mondale
Buckley	Hart, Gary	Montoya
Bumpers	Hartke	Morgan
Burdick	Hatfield	Muskie
Byrd, Robert C.	Hathaway	Nunn
Cannon	Hollings	Pearson
Case	Huddleston	Percy
Chiles	Humphrey	Ribicoff
Church	Jackson	Sparkman
Clark	Javits	Stennis
Cranston	Johnston	Stevenson
Domenici	Long	Symington
Durkin	Magnuson	Talmadge
Eagleton	Mathias	Weicker
Fong	McClellan	Williams
Ford	McGovern	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, for

NOT VOTING—11

Baker	Culver	McGee
Bayh	Goldwater	Tunney
Brooke	Hart, Philip A.	
Byrd, Harry F., Jr.	Helms	
	Inouye	

So Mr. TAFT's amendment, as modified, was rejected.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MANSFIELD. I move to lay that motion on the table.

The PRESIDING OFFICER (Mr. LEAHY). The question is on agreeing to the motion of the Senator from Montana.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. May we have order in the Chamber so the Senator from West Virginia may be heard?

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RESUMPTION OF CONSIDERATION OF SENATE RESOLUTION 400

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the hour of 11 a.m. tomorrow the Senate resume consideration of the unfinished business, Senate Resolution 400.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT ON AMENDMENTS TO AND VOTE ON SENATE RESOLUTION 400

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 11 a.m. tomorrow morning there be a time limit for debate on the amendment by Mr. STENNIS and Mr. TOWER, the time to be limited to 3 hours to be equally divided between Mr. RIBICOFF and Mr. STENNIS, that a vote occur on the amendment by Mr. STENNIS and Mr. TOWER at the hour of 2 p.m. tomorrow afternoon, that immediately upon the disposition of that vote the Senate proceed to vote on the Cannon substitute, as amended, if amended, and that upon the disposition of that vote the Senate proceed immediately to the vote on Senate Resolution 400, as amended if amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That on Wednesday, May 19, 1976, at the hour of 11:00 a.m., the Senate proceed to consider the amendment offered by the Senator from Texas (Mr. TOWER) and the Senator from Mississippi (Mr. STENNIS), with a time limitation thereon of 3 hours, to be equally divided and controlled by the proponents of the amendment and the manager of the resolution.

Ordered further, That at the hour of 2:00 p.m., the Senate proceed to vote on the Tower-Stennis amendment, and that immediately following that vote, there occur a vote on the substitute amendment of the Senator from Nevada (Mr. CANNON), and that if adopted, the committee substitute amendment, as amended, be considered as having been adopted, and that in any case, the Senate immediately proceed to vote on S. Res. 400 as amended, if amended.

EXECUTIVE SESSION

Mr. FANNIN. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations.

There being no objection, the Senate proceeded to the consideration of executive business.

FEDERAL ELECTION COMMISSION

Mr. CANNON. Mr. President, on May 4, 1976, the Senate passed by a vote of 62 to 29 the Federal Election Campaign Act Amendments of 1976 (S. 3065) providing for the administration of the Federal Election Campaign Act of 1971, as amended, by a Federal Election Com-

mission to be appointed by the President, by and with the advice and consent of the Senate. S. 3065 had passed the House on May 3, 1976, by a vote of 291 to 81. On May 11, 1976, the President signed S. 3065 into law.

Yesterday, May 17, the President submitted to the Senate the nomination of six individuals as members of the Federal Election Commission, five of whom were previously confirmed by the Senate as members of the Commission prior to the Supreme Court's decision in Buckley against Valeo. The nominations have been made pursuant to section 101 of the Federal Election Campaign Act Amendments of 1976.

On March 14, 1975, the Subcommittee on Privileges and Elections of the Committee on Rules and Administration held hearings on the nominations of Thomas A. Harris of Arkansas, Joan D. Aikens of Pennsylvania, Robert O. Tiernan of Rhode Island, Vernon W. Thomson of Wisconsin, and Neil Staebler of Michigan, to be Commissioners of the Federal Election Commission. These nomination were reported favorably by the Committee on Rules and Administration on March 24, 1975, and approved by the Senate on April 10, 1975.

The pending nominations of these five individuals have been cleared by the members of the Committee on Rules and Administration for approval by the Senate. In view of the Senate's recent approval, after full hearings, of these five individuals, I ask unanimous consent that the Senate consider their nominations as in executive session at this time without referral to that committee.

Several Senators addressed the Chair.

Mr. HATFIELD was recognized.

Mr. HATFIELD. Mr. President, reserving the right to object, I wonder if the Senator will yield for a question or two.

Mr. CANNON. I yield.

Mr. HATFIELD. I ask the chairman of the committee what his time schedule is on the sixth member who has been nominated by the President and whose name has been sent to the Senate along with the five names that are now before us at this time? I refer to former Congressman, Mr. Springer, who is also a former member of the Federal Power Commission.

Mr. CANNON. Mr. President, the Committee on Commerce of which I am a member held hearings on the nomination of William L. Springer, a former Congressman from the State of Illinois and the sixth nominee to the Federal Election Commission on March 19 and 20, 1973, when he was nominated to the Federal Power Commission. His nomination to the Federal Power Commission was approved by the Senate on May 21, 1973, by a rollcall vote of 65 to 12.

Since Mr. Springer's present nomination is to the Federal Election Commission, it is necessary, however, to have the matter referred to the Committee on Rules and Administration, and I intend to call for a hearing on this nomination on Thursday or Friday of this week.

Should the Senate confirm five of the pending Presidential appointments, being more than a majority of the members, it is hoped that the Federal Election Commission will then be able to perform its duties and carry out all of the vital functions delegated to it under the law, as recently amended by this Congress, pending Committee hearings and subsequent consideration by the Senate of the President's sixth appointment to the Commission.

I say, in further response to our colleague, that I said on Thursday or Friday for the reason that we have been holding hearings for a number of days in the joint conference committee on the airport-airways bill. We did not conclude this morning and went over until tomorrow morning. I am hopeful we will conclude tomorrow. If we do, I will set the hearing on the Springer nomination for Thursday. If we do not conclude tomorrow morning with the airport-airways bill, then I will set the hearings for Friday morning on Mr. Springer.

Mr. HATFIELD. I thank the Senator, and I am glad the Senator brought out the point that he, as the chairman of the Committee on Rules and Administration and also as a member of the Committee on Commerce, has already sat in a hearing on Congressman Springer, which I am sure was a very intensive, compresensive, and complete hearing.

Will the Senator not agree that in all likelihood this would be a relatively brief hearing in the Committee on Rules and Administration and then we could expect the nominee's name reported out, barring unforeseen circumstances, by Monday, at least to the Chamber?

Mr. CANNON. I could not make a commitment as far as Monday is concerned, but based on my past knowledge of having heard this witness, the nominee, before, I myself would be willing to report his nomination immediately at the conclusion of the hearings, assuming that nothing else comes up that was not brought out in our hearings before in the Committee on Commerce.

So if the committee agrees with me on that and we do not receive any adverse comments on the nominee, I would hope that we could report him out forthwith.

Mr. HATFIELD. That is precisely the point I wished to ask the Senator. The Senator has agreed to a hearing on Thursday and Friday. But I was wondering what the Senator felt about reporting the nomination after the hearing, if there would be any delay that he could foresee at this time, not precluding, of course, any possible question raised in the hearing.

Mr. CANNON. I do not see any need for delay or any reason for delay. So far I have not had any requests from anyone to appear and testify in opposition to the nominee.

Mr. HATFIELD. I have one last question, if the Senator will yield further. Regardless of the time schedule we may have on Mr. Springer, is it not true that until the nominees are formally sworn in by the President none of the members whom we confirm can function as a commission?

Mr. CANNON. The Senator is correct. After the notice of confirmation, it is my understanding that they would have to be sworn in by the President.

Mr. HATFIELD. If the White House decided they wanted to wait until all six were confirmed before swearing any of them in that would mean, then again, that the function of this Commission would still be nonexistent.

Mr. CANNON. The Senator is cor[illegible] as I understand the law.

Mr. HATFIELD. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not object, I welcome the assurances that the chairman of the Committee on Rules and Administration has provided to the Senate. I shall not object because I think it is important that the campaign funds which have been held up be released and made available as early as possible.

It also is important that the Senate move to confirm the nomination of the sixth FEC Commissioner as quickly as possible. A new chairman of the Commission must be selected, and it will be difficult, if not lawfully impossible, to choose a new chairman without all the members being on board.

There also are legal questions that could arise about the powers of the Commission. I will not go through them at the present time. It may be that they are legal questions without substance. Yet questions could arise, it seems to me, if certain actions were attempted by the Commission without its full membership because the FEC is contemplated as a bipartisan Commission.

I do welcome the assurances of the chairman. I hope that we will be able, by the early part of next week at the latest, to have the nomination of the sixth member confirmed.

Mr. CANNON. I thank the Senator.

The PRESIDING OFFICER. If there is no objection, the nominations will be stated. The legislative clerk read the nomination of Neil Staebler, of Michigan; Veronon W. Thomson, of Wisconsin; Thomas E. Harris, of Virginia; Joan D. Aikens, of Pennsylvania; and Robert O. Tiernan, of Rhode Island to be members of the Federal Election Commission.

The PRESIDING OFFICER. Without objection, the nominations are confirmed.

Mr. CANNON. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. CANNON. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

CORRECTION OF A VOTE

Mr. BUMPERS. Mr. President, on April 5 the Senate defeated a motion to table a motion to reconsider the vote by which the amendment of the Senator from Oklahoma (Mr. BARTLETT) to Senate Concurrent Resolution 98, the M[illegible]a

Carta resolution, was agreed to. The rollcall, No. 118 legislative, appears at page S4957 of the RECORD for that day, and reflects that I voted "nay." The vote is recorded as 30 yeas, 43 nays, and 27 not voting.

Mr. President, I voted "yea" on this rollcall. I supported the Bartlett amendment when it was originally agreed to by the Senate, and I voted against the motion to reconsider, believing that for reasons of economy it would be better to send nine members of Congress to Britain to pick up the Magna Carta rather than 25.

Mr. President, I ask unanimous consent that when the permanent RECORD is printed I be shown as voting "yea" on rollcall vote No. 118 legislative. This change would not alter the result of that vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—SENATE RESOLUTION 400

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Leahy, I ask unanimous consent that Doug Racine and Herbert Jolovitz be permitted the privilege of the floor during the further consideration of Senate Resolution 400 and during all rollcall votes in relation thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I ask unanimous consent that a member of my staff, Mr. Walker Nolan, be permitted the privilege of the floor during the consideration of and voting on Senate Resolution 400.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT MEETING OF THE HOUSES—ADDRESS BY THE PRESIDENT OF FRANCE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may be allowed to suggest the absence of a quorum, the time to expire at 12:15 p.m.; that at that time the Senate stand in recess, pending the conclusion of the address to be delivered by the President of France Valery Giscard d'Estaing.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Also, I ask unanimous consent that the Senate resume consideration of its business not later than 2 o'clock this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The order for the quorum call is rescinded.

Thereupon, the Senate, at 12:15 p.m., took a recess.

The Senate, preceded by the Secretary of the Senate, Francis R. Valeo; the Sergeant at Arms, F. Nordy Hoffman; the Vice President of the United States; and the President pro tempore (JAMES O. EASTLAND), proceeded to the hall of the House of Representatives to hear the address by the President of France.

(The address delivered by the President of France to the joint meeting of the two Houses of Congress is printed in the proceedings of the House of Representatives in today's RECORD.)

At 1:21 p.m., the Senate having returned to its Chamber, reassembled, and was called to order by the Presiding Officer (Mr. HATHAWAY).

ORDER FOR RECOGNITION OF SENATOR GOLDWATER TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after Mr. PROXMIRE is recognized under the order previously entered, Mr. GOLDWATER be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The Senate continued with the consideration of the resolution (S. Res. 400) to establish a standing committee of the Senate on intelligence activities, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the Senate votes tomorrow on the Cannon substitute for the committee substitute, if the amendment is agreed to, the committee amendment as amended be considered as adopted, since, in effect, the Senate would be voting on the same question again.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the orders for the recognition of Senators have been completed, there be a period for the transaction of routine morning business, not to extend beyond 11 a.m., with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until 2 p.m. today.

There being no objection, the Senate, at 1:27 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. STAFFORD).

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The Senate continued with the consideration of the resolution (S. Res. 400) to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

The PRESIDING OFFICER. The pending business is the amendment in the nature of a substitute by the Senator from Nevada (Mr. CANNON).

Who yields time?

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I have a matter that I have discussed with the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Illinois (Mr. PERCY), the ranking Republican member handling this bill, and now with Senator WEICKER.

On page 12, in line 7, I suggest that where we are discussing information being made public——

The PRESIDING OFFICER. Is the Senator from California discussing a possible amendment to the amendment in the nature of a substitute of the Senator from Nevada?

Mr. CRANSTON. Beg pardon?

The PRESIDING OFFICER. Is the amendment to the amendment offered as a substitute by the Senator from Nevada? Is the Chair correct in that assumption?

Mr. CRANSTON. No; I am just going to discuss with the floor manager adding three words, which could be done by their accepting those words, I believe, at this point.

The PRESIDING OFFICER. The Chair wishes to know whether or not it is to the amendment in the nature of a substitute.

Mr. CRANSTON. Yes.

The PRESIDING OFFICER. Or to the original resolution.

Mr. CRANSTON. It is to the amendment in the nature of a substitute.

The PRESIDING OFFICER. The one offered by the Senator from Nevada?

Mr. CRANSTON. Right.

The PRESIDING OFFICER. The Senator may proceed.

Mr. CRANSTON. On line 7, where we are discussing information and the release of that information, the present language is that the President—

Certifies that the threat to the national interest of the United States posed by such disclosure is vital and outweighs any public interest in the disclosure.

I suggest that the word "security" be inserted after the word "national" and before the word "interest" in line 7, just to stress that national security is involved. I understand that language is acceptable to the Senators from Connecticut.

Mr. RIBICOFF. Mr. President, the lan-

guage is satisfactory to the manager of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. WEICKER. Mr. President, I yield time for the quorum call.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the order for quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination reported earlier today.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

THE JUDICIARY

The second assistant legislative clerk read the nomination of Maurice B. Cohill, Jr., of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUGH SCOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The Senate continued with the consideration of the resolution (S. Res. 400) to establish a standing committee of the Senate on intelligence activities, and for other purposes.

Mr. CRANSTON. Mr. President, I turn to another suggestion. On the same page of the Cannon substitute, line 5 on page 12 and line 10 on page 12, I suggest that after the word "President" the word "personally" be inserted in both places.

The PRESIDING OFFICER. The Chair informs the Senator that there is a pending amendment earlier offered by the Senator from California which has not been acted upon.

Mr. CRANSTON. I did not actually offer that as an amendment, so I am not discussing that.

The PRESIDING OFFICER. Does the Senator move to modify his amendment?

Mr. CRANSTON. I move to modify that amendment to suggest that the word "personally" be inserted therein.

The PRESIDING OFFICER. The Chair suggests to the Senator that he withdraw his earlier amendment.

Mr. CRANSTON. I withdraw my earlier amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

ORDER AUTHORIZING THE COMMITTEE ON COMMERCE TO MEET THIS AFTERNOON

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Commerce be allowed to meet this afternoon while the Senate is in session.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The Senate continued with the consideration of the resolution (S. Res. 400) to establish a standing committee of the Senate on intelligence activities, and for other purposes.

The PRESIDING OFFICER. The Chair asks the Senator from California if he will repeat his current amendment.

Mr. CRANSTON. Yes.

This amendment has been discussed with the leadership on both sides of the aisle just now. The proposal is this: on line 5, after the word "President" the word "personally" be inserted, and on line 10, after the word "President" the word "personally" be inserted.

The purpose of the amendment is to insure that this will in all cases be a Presidential notification and not done through delegation to some other official without the President's knowledge of the request.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. CRANSTON. I yield.

Mr. TOWER. It is my understanding that the Senator's intent here is simply to insure that this is a personal communication from the President, that it does not require that he appear personally.

Mr. CRANSTON. Absolutely.

Mr. TOWER. And that the notification come over his signature.

Mr. CRANSTON. That is correct.

Mr. GRIFFIN. Mr. President, reserving the right to object, looking at the language on line 10, although the legislative history which has just been made would help, it seems to me that if we are going to insert the word "personally," we ought to add the words "in writing."

Mr. CRANSTON. That is fine.

Mr. GRIFFIN. "Notifies the s[illegible] committee in writing of his objecti[illegible]

Mr. CRANSTON. I so move to modify the amendment.

The PRESIDING OFFICER. The amendment is so modified.

The Chair inquires: Is the modification to occur in both places?

Mr. CRANSTON. Yes.

The PRESIDING OFFICER. It is in both places.

Is time yielded back?

Mr. CRANSTON. Mr. President, I yield back any remaining time on the amendment.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment, as modified, of the Senator from California.

The amendment as modified was agreed to.

Mr. CRANSTON. I thank all Senators involved.

Mr. GRIFFIN. Mr. President, I call to the attention of the managers of the bill line 8 on page 12, specifically the words "is vital."

The President here is required to certify "that the threat to the national interest of the United States posed by such disclosure is vital and outweighs any public interest in the disclosure."

I frankly wonder about the use of the word "vital." It does not have a very precise meaning in this context, as far as I am concerned.

We have just discussed and re[illegible]d the insertion of the word "secur[illegible]y," recognizing that there might be economic or diplomatic information, not national security in character, which nevertheless should not be disclosed. By the same token it seems to me that there might be information, not perhaps "vital" to the survival of the Nation, which also should not be disclosed. Perhaps we should try to determine what the word "vital" means in this context since we are setting up a standard with this language.

I would like to read the definition of the word "vital" from Webster's New Collegiate Dictionary:

> Akin to life, existing as a manifestation of life, concerned with or necessary to the maintenance of life, fundamentally concerned with or affecting life, tending to renew or refresh the living, destructive to life.

My question is: Is that what we really mean? Are we going to limit it to that kind of a situation, where the life of the Nation has to be involved?

So what I am suggesting is that we strike the words "is vital" in line 8.

Mr. RIBICOFF. Mr. President, I shall respond to the distinguished minority whip.

This language comes from the original Church committee bill. I wonder whether the Senator from Michigan will be satisfied with these words: "is of such gravity that it outweighs any public interest in disclosure."

Mr. GRIFFIN. I think that is [illegible]ch

better. In other words, it is a very serious matter. I think that is what we are really talking about.

Mr. RIBICOFF. That is acceptable to me, if it is satisfactory to the Senator from Michigan.

Mr. GRIFFIN. It would be. I think that is a very good suggestion.

Mr. RIBICOFF. My suggestion is this: On line 8, strike out the words "vital and" and insert in lieu thereof the words "of such gravity that it outweighs any public interest in disclosure".

The PRESIDING OFFICER. Is the Senator suggesting that in the form of a modification of the amendment?

Mr. RIBICOFF. I think it should be done by the Senator, and I accept it.

Mr. GRIFFIN. I propose the modification.

The PRESIDING OFFICER. The Senator from Michigan so modifies the amendment.

Mr. GRIFFIN. On page 12, line 8, strike the words "vital and" and insert, as has been suggested, the words "of such gravity that it".

The PRESIDING OFFICER. Is all time yielded back?

Mr. RIBICOFF. Mr. President, I should like the distinguished Senator from Nevada to have an opportunity to look at the wording.

The PRESIDING OFFICER. Does the Senator from Michigan or the Senator from Connecticut suggest the absence of a quorum?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time to be charged against both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time.

Mr. GRIFFIN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan, as modified.

The amendment, as modified, was agreed to.

Mr. CANNON. Mr. President, do we know precisely how many amendments remain on Senate Resolution 400?

Mr. MANSFIELD. Yes. So far as we know, one.

Mr. CANNON. That is the Tower-Stennis amendment?

Mr. MANSFIELD. That is right. They have indicated that their time could be better spent tomorrow, rather than this afternoon.

Mr. RIBICOFF. Mr. President, if the Senator will yield, I believe that Senator NUNN would like an opportunity to engage in a colloquy with the distinguished Senator from Nevada and me. I have informed Senator NUNN that I am willing, and I am sure the Senator from Nevada will be willing to do so, at his convenience.

Mr. CANNON. Certainly.

Mr. RIBICOFF. I imagine that we will use my time, not Senator STENNIS' time, to oblige the Senator from Georgia.

Mr. STENNIS. We will still have an hour and a half?

Mr. RIBICOFF. I will take it out of my time, not out of the time of the Senator from Mississippi.

Mr. BAYH. Mr. President, throughout the 1970's we have been shocked by one revelation after another regarding improper activities of intelligence agencies. The piecemeal disclosure of abuses, led us to establish a Select Committee on Intelligence to give us a full and complete picture of problems within the intelligence community. The Rockefeller Commission was charged with a similar responsibility.

Now after a 15 month study by the select committee, we have more information regarding the operation of this country's intelligence apparatus than ever before. We have learned that while the intelligence community for the most part has carried out its duties well and performed a vital service, the occasions on which power was abused were more numerous and even more shocking than we had previously imagined. The question before us today is whether we will respond to what we learned and take the first step in gaining control of intelligence activities by establishing an effective oversight committee. I sincerely hope that we will answer that question in the affirmative.

Mr. President, I think all of us here recognize the importance of sound intelligence to this Nation. No one wants to do anything to jeopardize our ability to collect intelligence information. We do have a responsibility, however, to insure that intelligence activities are carried out effectively and in a manner consistent with our foreign policy and the fundamental principles of individual rights on which this Nation was founded. This has not been the case in the past, and we cannot assume that it will be so in the future.

When bureaucracies are capable of carrying out clandestine activities and are not properly restrained, there will always be the temptation to employ those capabilities in an improper fashion. I do not wish to imply that individuals in the intelligence community have evil motives, Mr. President. To the contrary, their underlying intentions are usually most patriotic. But as Justice Brandeis said many years ago,

> Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficient. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well meaning but without understanding.

Mr. President, our recent experience includes Cointelpro operations to disrupt the activities of groups expressing political dissent, the CHAOS program to collect information on thousands of Americans who opposed the Vietnam war, FBI mail cover programs, attempts to discredit Martin Luther King, Jr., CIA paramilitary operations in Chile and Laos, and assassination attempts against a number of foreign leaders. It is clear that we must be more alert and make it perfectly clear to the intelligence community that there are, indeed, limits to what it can do.

I believe a permanent oversight committee with legislative authority is an important first step in gaining control of intelligence activities. One committee with responsibility solely for intelligence oversight and legislation should serve us far better than maintaining the exclusive jurisdictions for intelligence matters in committees which have many other responsibilities.

The new committee can serve as a watchdog to keep the intelligence agencies in check, and, equally as important, work on legislation to insure protection of human rights and to make our intelligence efforts as effective as possible. Recent experience shows there is much to be done in this last area.

Mr. President, nearly every person or group which has studied the intelligence agencies has called for an intelligence oversight committee, including the Senate select committee, the Rockefeller Commission, President Ford, George Bush, William Colby, and the Murphy Commission. It is up to us now to act.

The compromise proposal introduced by the distinguished chairman of the Rules Committee will provide us with an effective oversight committee. While I do not believe it is perfect and there are many changes I would make, I believe it merits support and passage.

The new committee will have a broadly drawn membership. It will have exclusive jurisdiction over the CIA and will share jurisdiction with existing committees on other intelligence matters. It will be involved in the critical budget process of the intelligence agencies. The compromise also provides adequate protection against unwarranted disclosure of sensitive information by resting the ultimate authority in these matters with the full Senate.

Mr. President, if we fail to provide a mechanism to control the intelligence agencies now, we will set the worst possible precedent. Our failure would be nothing more than a green light for the overzealous to repeat past abuses.

We cannot turn our backs to the outrageous actions which have been revealed. If we care anything about restoring confidence in Government, we must act now to begin to set things right in the intelligence establishment.

ORDER FOR H.R. 12527 TO BE HELD AT THE DESK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that H.R. 12527, authorizing funds for the Federal Trade Commission, be held at the desk until further disposition. It has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it will be so held, when received.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate convenes tomorrow at 10 a.m.

Mr. PROXMIRE will be recognized for 15 minutes. Thereafter Mr. GOLDWATER will be recognized for 15 minutes. Morning business will follow until 11 a.m., with a limitation on statements therein of 5 minutes each.

At 11 a.m. the Senate will resume consideration of Senate Resolution 400. The pending question at that time will be on adoption of the Stennis-Tower amendment. There is a limitation for debate thereon if 3 hours equally divided.

At 2 p.m. the Senate will vote by rollcall on the Stennis-Tower amendment. When that amendment is disposed of the vote will occur immediately, without intervening motion or debate, on amendment 1643, the Cannon et al. substitute amendment as amended.

After the Senate votes on the Cannon substitute to the committee substitute, if the Cannon substitute is agreed to, the committee amendment, as amended, will be considered as adopted since, in effect, the Senate would be voting on the same question again.

Without intervening motion, debate, or amendment the Senate will then proceed to vote by rollcall on Senate Resolution 400.

It is the intention of the leadership to call up the antitrust legislation upon disposition of Senate Resolution 400.

Also coming up in the near future will be the military procurement and military construction authorization bills, but not necessarily in that order.

S. 3439, foreign military sales, will be taken up in the near future.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and at 2:36 p.m. the Senate adjourned until tomorrow, Wednesday, May 19, 1976, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate May 18, 1976:

DEPARTMENT OF DEFENSE

John J. Martin, of Maryland, to be an Assistant Secretary of the Air Force, vice Walter B. LaBerge, resigned.

DEPARTMENT OF STATE

Joseph Z. Taylor, of Virginia, to be Deputy Inspector General, Foreign Assistance, vice John P. Constandy, resigned.

THE JUDICIARY

John P. Crowley, of Illinois, to be U.S. district judge for the northern district of Illinois, vice Richard B. Austin, retired.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 18, 1976:

FEDERAL ELECTION COMMISSION

The following-named persons to be members of the Federal Election Commission for the terms indicated:

For a term expiring April 30, 1977:
Neil Staebler, of Michigan.
For terms expiring April 30, 1979:
Vernon W. Thomson, of Wisconsin.
Thomas E. Harris, of Virginia.
For terms expiring April 30, 1981:
Joan D. Aikens, of Pennsylvania.
Robert O. Tiernan, of Rhode Island.

THE JUDICIARY

Maurice B. Cohill, Jr., of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania.

[redacted]efense dollars if relatively more money [redacted]vested in improved U.S. ship and air-[redacted]maintenance and readiness programs, [redacted]latively less to new ship-building and [redacted]t-building, especially at the more expensive end of the high-low mix of ships and aircraft.

An "Efficiency" Defense Budget the same size of that currently requested, but designed with these principles in mind, would yield a far more potent and suitable U.S. defense force.

OPTION 3: MATCHING DEFENSE FORCES TO FOREIGN POLICIES

Adopting the EFFICENCY Defense Budget outlined in this study will not save money but will add additional defense muscle where it is needed most. Adopting the ECONOMY defense Budget outlined here would save $8,537.9 million and still provide an adequate and strong defense force.

Adopting a different foreign policy generates different kinds of defense forces to support it. We have examined the different kinds of TACAIR, seapower, and defense manpower forces needed for each of four foreign policy options:

(1) A Pax Americana Foreign Policy
(2) The Present Foreign Policy of the U.S.
(3) A Pacific Pullback/Europe-First Foreign Policy
(4) A General Retrenchment U.S. Foreign Policy

How much should be spent on defense to implement each of these? What kind of forces are needed for each?

PAX AMERICANA

This foreign policy would require a very strong and larger defense force. The U.S. Navy would be built to a level of 650 ships with as many as 25 aircraft carriers and [redacted]ing escorts. The Navy would swell to 800,000 people and the Marines to 250,000. [redacted] forces would be assigned in strength to [redacted]y ocean in the world. A Pax Americana military force would also maintain 30 active Army divisions, 5 active Marine divisions, 45 tactical Air Force wings, 25 Navy carrier wings, and 5 Marine aircorps wings. U.S. strategic force levels need not be changed significantly to support a foreign policy of Pax Americana since a massive U.S. strategic force to deter aggression is already in place. A Pax America military force would cost as much as twice what the U.S. now allocates to the Defense budget, an estimated dollar cost of roughly $220 billion per year with nearly 4 million persons in uniform and 2 million defense civilians working full time for DoD.

PRESENT POLICY: STATUS QUO

Present U.S. foreign policy commitments could be supported by a budget similar in dollar size to the U.S. Defense budget simply by adopting the administration program. Or a somewhat smaller defense budget with the suggested cuts laid out would give an economical but still impressive defense program to the country.

Present policy could be supported by an "economical" defense program costing $8,537.9 million less than the original FY 1977 Defense Department request. Still another legitimate defense posture used to support the present policy might be what would be termed an "efficient", if not economical, defense posture. In the efficient posture the $8,537.9 million saved from the "soft" programs would be plowed back into more reasonable defense programs such as PGMs, [redacted] tank weaponry, improved TACAIR pro[redacted], and greater readiness and maintenance programs.

[redacted] PACIFIC PULLBACK/EUROPE FIRST

[redacted] kind of foreign policy would require a defense establishment consisting of a 400 ship Navy, an overseas force reduced in size by 72,000 consisting of withdrawals from Korea and scaledowns elsewhere over five years. Pacific bases would be withdrawn from Korea and a naval scaledown in the Far East would occur. Once completed such a policy would save $720 million annually in manpower costs and $7,400 million in Navy-Marine costs yearly. U.S. Naval forces would be centered around nine attack carriers at their core. Scaledowns in naval tactical airforces and tactical air units in the Western Pacific region would also allow annual cost savings of roughly $1,000 million per year once accomplished. European forces under this policy would remain similar to the present deployments. Overall this policy in fiscal terms would mean defense expenditures cuts of $9,120 million based on foreign policy changes alone. This, of course, could be combined with the "economy" cuts of $8,537.9 million described under the present foreign policy to produce an annual total savings of $17,657 million dollars in defense expenditures. Conversely, these resources could be diverted to building a stronger European force should that be necessary to maintain the military balance there under such a policy of "Europe First."

GENERAL RETRENCHMENT

A policy of general retrenchment would involve a major pullback of U.S. forces from both Europe and the Western Pacific. This policy would require far fewer forces than Pax Americana, the Status Quo, or Pacific Pullback Policies and would also require less of a defense budget investment. Under a general retrenchment policy the U.S. Navy would still retain 400 ships, nine attack aircraft carriers, and 342,000 Navy people as well as 126,000 Marines. This would represent 82 fewer ships than we now maintain and 40% fewer people. The Navy budget would thus be in the neighborhood of $28.5 billion in current dollars, down $8,900 million from the current Navy budget. Tactical airforces could also be confined to the United States or in token deployments abroad with 20 of the 42 TACAIR wings withdrawn and demobilized for a savings estimated at $12 billion in current dollars each year after such action was taken. Such a general retrenhcment policy would also permit a return and demobilization of 172,000 land-based troops from Europe and Asia at a cost savings of at least $2.0 billion per year once the transition costs have been paid. Strategic forces would remain at present levels for the purpose of deterrence of direct attacks on the United States.

Changing to a foreign policy of general retrenchment would thus require a significantly smaller defense establishment abroad. It would signal far less dependence on the military power and other advantages secured by tight alliances. The defense expenditures for such a policy would be $22.9 billion less than that needed to maintain the present foreign policy—this based solely on foreign policy changes. If the "economies" also identified in the present defense budget were taken an additional $8,537.9 million might be saved. Thus, a foreign policy of general retrenchment might lead to savings in excess of 31 billion dollars in defense expenditures.

SUMMARY

Overall, U.S. defense costs would vary in the following ways depending upon the foreign policy option elected and whether one adpoted an "Efficiency" or an "Economy" budget for the Department of Defense.

Fiscal year 1977 defense expenditures

Foreign policy adopted

1. Present U.S. Policy.
2. Pax American Policy.
3. Pacific Pullback/Europe-First Policy.
4. General Retrenchment Policy.

Efficiency budget

1. $116.4 Billion ($114.2 + 2.2B in payroll added).
2. $220.0 Billion (rough estimate) (extra cost: $104 Billion).
3. $107.3 Billion (foreign policy cuts alone) (savings: $9.1 Billion).
4. $93.5 Billion (foreign policy cuts alone) (savings: $22.9 Billion).

Economy budget

1. $107.86 Billion ($8,537.9 million saved).
2. Not applicable (all kinds of forces purchased with hedges built into budget).
3. $98.8 Billion (foreign policy + economy cuts) (savings: $17.6 Billion).
4. $85.0 Billion (foreign policy + economy cuts) (savings: $31.4 Billion).

In conclusion, we allow the reader to draw his own conclusion as to the correct foreign policy for the United States and whether to elect the economy or efficiency versions of the Defense budget. It is also our firm conclusion that there should be no rubberstamping of the FY 1977 defense budget or of any automatic cost-of-living raise in military and DoD civilian pay for FY 1977. We conclude that even if the current U.S. foreign policy is adopted, either $8,537.9 million should be reinvested in programs that make more sense such as those identified in option 2 or $8,537.9 million should be saved the taxpayer or invested in other more useful government programs. Both the economy and the efficiency budget options make more sense than the proposed FY 1977 budget now before the Congress.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The PRESIDENT pro tempore. Under the previous unanimous-consent agreement, 11 a.m. having arrived, the Senate will now resume consideration of the unfinished business, Senate Resolution 400, which will be stated by title.

The second assistant legislative clerk read as follows:

A resolution (S. Res. 400) to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

The Senate resumed the consideration of the resolution.

The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the amendment offered by the Senator from Texas (Mr. TOWER) and the Senator from Mississippi (Mr. STENNIS), with a time limitation of 3 hours thereon, and with a vote thereon to occur at 2 p.m.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER); for himself, Mr. STENNIS, Mr. GOLDWATER, and Mr. THURMOND, proposes an amendment numbered 1649.

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. TOWER. Who has control of the time in favor of the amendment, and who has control of the time in opposition?

The PRESIDENT pro tempore. Senators RIBICOFF and STENNIS are in control of the time.

The amendment is as follows:

On page 5 strike out paragraphs (2) and (3) of section 3(a) of the amendment and insert in lieu thereof the following:

"(2) Intelligence activities of all other departments and agencies of the Government except the Defense Intelligence Agency, the National Security Agency, and other agencies and subdivisions of the Department of Defense.

"(3) The organization or reorganization of any department or agency of the Government, other than the Department of Defense, to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

Strike out clauses (B), (C), and (D) of paragraph (4) of section 3(a) of the amendment and redesignate clauses (E) and (F) as clauses (B) and (C), respectively.

Strike out clause (G) of paragraph (4) of section 3(a) of the amendment and insert in lieu thereof the following:

"(D) Any department, agency, or subdivision which is the successor to the agency named in clause (A); and the activities of any department, agency, or subdivision which is the successor to any department or bureau named in clause (B) or (C), to the extent the activities of such successor department, agency, or subdivision are described in clause (B) or (C).".

Strike out the period in section 4(c) and insert in lieu thereof "as specified in section 3(a).".

Strike out clauses (2), (3), and (4) of section 12 and redesignate clauses (5) and (6) as clauses (2) and (3), respectively.

Mr. TOWER. Mr. President, I ask unanimous consent that I may have control of the time, in the absence of Mr. Stennis.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TOWER. I yield myself such time as I may require.

Mr. President, as a result of the investigation conducted by the Senate Select Committee on Intelligence Activities, there is one inescapable lesson that we in the Senate should have learned about the intelligence community—that is, that the entire community is a complex, fragile, and essential asset to the security of the United States.

While the committee's investigation revealed many abuses that occurred over the years, it also showed that such abuses were the exception rather than the rule in our intelligence agencies, and that more often than not the abuses that did occur were initiated by politicians who had authority over the agencies rather than by the agencies themselves. While the results of the select committee's investigation makes it clear that changes should be made in the manner in which Congress monitors the activities of the intelligence agencies, I feel that creation of a select committee on intelligence with legislative and authorization authority is the wrong way to do this.

Yesterday, my distinguished colleague, the Senator from Illinois (Mr. PERCY), stated that he felt that the Department of Defense and all of the intelligence agencies should be subjected to oversight by one group of Senators who have the entire intelligence picture. While I do not totally agree that unified and centralized oversight is essential, I am certain that to give such an oversight committee the legislative and authorization authority for appropriations would be a serious mistake. This is true, especially of the Department of Defense, where intelligence and the defense, generally, is so inextricably bound together.

Also, in the Department of Defense, tactical and national intelligence are impossible of separation; for what, in peacetime, is apparently purely tactical information, may certainly, in times of crisis or high tension, be of great national importance. In testimony before the select committee, as well as the Senate Armed Services Committee, it was revealed that the DCI, who is responsible for the national intelligence budget, as well as Defense officials, found it almost impossible and inconceivable to separate these two areas.

For the Senate to attempt in haste to separate a major part of the Defense intelligence budget from the committee with principal intelligence responsibility for the defense generally, will, in my opinion, create grave risk to the national security. This position is supported by the recent testimony of Deputy Secretary of Defense for Intelligence, Elisworth, who, before the Armed Services Committee, on Thursday last, stated:

> We operate our intelligence responsibility in a somewhat different world from the CIA or the FBI. We operate in an extremely highly technological world, which with our facilities is very sensitive and very delicate. And that is the basis for our first concern—from the standpoint of maintaining the overall confidentiality of our sensitive and expensive military and defense intelligence sources and methods and—you know what I mean, particularly our most modern collection systems. The visibility that is created by separate budget process would entail, as we see it, grave risk. That is our first concern about the creation of a committee with the authorization for appropriations jurisdiction over these matters.

Mr. President, I think that few Members of the Senate realize that section 12 of Senate Resolution 400 would, in its present form, require a separate bill or joint resolution to authorize appropriations for the various agencies and departments involved in intelligence activities. I am concerned that this section would create unworkable problems regarding public disclosure of the intelligence budgets of the intelligence agencies and departments. For instance, the highly classified activities of the National Security Agency, if revealed in such fashion to enemy intelligence forces could be disastrous to one of our most important national intelligence assets.

For these and other very important reasons, which will be discussed more fully by the distinguished chairman of the Committee on Armed Services and the distinguished ranking member of that committee, we urge the Senate to support this amendment.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. CULVER). The Senator will state it.

Mr. STENNIS. Who has control of time on the bill?

The PRESIDING OFFICER. Under the previous order, 3 hours are allotted for debate, and the time is to be equally divided between the Senator from [illegible] sissippi and the Senator from Tex[illegible] the opponents of the amendment.

Mr. STENNIS. Three hours f[illegible] so-called Tower-Stennis amendm[illegible]

The PRESIDING OFFICER. That is correct—equally divided, and the vote to occur at 2 p.m.

Mr. STENNIS. Mr. President, if I am in control of the time, I yield 10 minutes to the Senator from North Dakota.

Mr. YOUNG. Mr. President, I support this amendment, but I shall speak in general about the proposed legislation.

While I believe we need more responsible oversight of all of our intelligence agencies, I just cannot support *this* Senate bill, which would set up a committee of this size, with an almost unlimited staff.

This new committee would have oversight jurisdiction of all our intelligence agencies, including the Federal Bureau of Investigation, FBI; Central Intelligence Agency, CIA; National Security Agency, NSA; the Defense Intelligence Agency, DIA; and other minor intelligence organizations.

My major reason for opposing this bill is the excessive number of members of the committee and the size of its staff.

The bill would establish a committee of 15 members, with practically no limit on the number of staff members.

Mr. President, as one who has long dealt with intelligence matters, as a member of the Senate Appropriations Subcommittee on Intelligence [illegible]ations, I have always felt there w[illegible] no possible way to prevent leaks of th[illegible]ost sensitive and top secret informa[illegible] if you have a large committee and a big staff.

While our Appropriations Subcommittee does not have oversight responsibility, we do have the responsibility of getting all the information possible regarding CIA, DIA, NSA, and other intelligence operations, to justify the money being requested.

This Appropriations Subcommittee for years has been composed of only five Senators, and we have two staff members.

I think it is fair to say that almost every Senator who has served on this subcommittee felt that, because of the very sensitive information we must deal with, it should be a small committee. Most Members would be very reluctant or would even decline to serve on a committee with a much larger membership and an unlimited staff.

It is my understanding that on this new committee, the staff would have access to the most sensitive information. Mr. President, human nature is such that when too many people have access to this sensitive, interesting information, someone is bound to leak parts or all of it to an ambitious and inquisitive press.

The press people who concentrate on the business of intelligence are uncanny in their ability to piece together bits of information here and there and co[illegible] up with a pretty accurate story.

The Senate Select Intelligence Committee, which has been holding h[illegible]gs for nearly a year and a half, has made a considerable amount of good. They have

uncovered some things that need to be addressed. I cannot help but feel, however, that far too much information has been publicized, especially as to how our intelligence agencies such as the CIA operate in foreign countries.

These disclosures have very adversely affected the operation of our intelligence system. They have seriously damaged our intelligence agencies in foreign countries. The best example is the disclosure that Richard Welch was our top CIA agent in Greece. Shortly after he was identified as a CIA agent, he was murdered.

Examples such as this cannot help but demoralize the spirit and dedication of other CIA agents, especially those operating in hostile foreign countries.

If the Soviet Union conducted similar investigations into their KGB operations and made public all the inside operations of their spy agencies, such information would be most valuable to us. To acquire this kind of information, we would have to spend hundreds of millions of dollars.

Mr. President, intelligence plays a tremendously important role not only in the security of this Nation, but it makes possible a very large saving in military expenditures.

The more we know about what the Soviet Union or any other potential enemy is doing militarily, especially in the development of new weapons, the better we are able to determine what countermeasures we should take.

Constant surveillance by our intelligence satellites gives us accurate information as to almost every phase of foreign military activities, including troop movements and the deployment of missiles.

The present Senate Select Intelligence Committee, during its year and a half of operation, composed of 11 members, did its utmost to do a good job and try to prevent leaks of highly classified information.

The very size of this committee, however, along with its more than 70 staff members, made it just impossible to prevent very damaging leaks.

Mr. President, let me give one example of how important it is to keep some sensitive information top secret.

During World War II, when we developed the atomic bomb—as far as I am able to ascertain—not more than five Members of Congress were aware of the nearly $4 billion we secretly diverted into the development of the atomic bomb. This was one of the best kept secrets in our history. Had Hitler's Germany known early what we were doing, they might well have produced an atomic bomb before we did. They had the know-how.

Thus, world history, as we know it today, would have been changed.

With a 15-member Intelligence Committee and a staff of 60 or more having access to our top secrets of Government, such projects involving our national security, such as the development of the atomic bomb, could ever again be realized.

Mr. President, I would favor a joint Senate-House intelligence oversight committee dealing with all intelligence matters, but I would want it to be a relatively small committee with a very limited staff. This is the kind of legislation I would support.

Mr. President, I cannot vote for this bill but I hope and pray that history will be wrong.

Mr. WEICKER. Will the distinguished Senator from North Dakota yield for a question, and I shall be glad to have it on our time.

Mr. STENNIS. Yes.

Mr. YOUNG. Yes, I yield.

Mr. WEICKER. I wonder if the distinguished Senator would tell me and my colleagues who divulged the information on Richard Welch? I ask the question since this has become a focal point as to whether or not Congress can be trusted with this type of oversight function. I would like to have the question answered: Who divulged that information? Did anybody in the Congress or any congressional committee divulge it?

Mr. YOUNG. I think it was directly associated with the investigation at that time.

Mr. WEICKER. No, I am afraid I am not going to let that point go unanswered, because it was used, as I say, as a focal point to turn around this whole investigation. It was not as the result of any information coming from the Congress of the United States. It was divulged by a foreign periodical. That is the very simple fact of the matter.

Mr. YOUNG. That he was a member of the CIA was published at the time of the CIA hearing and I do not think the Senator would deny that through the investigations, most people know how these intelligence agencies operate now.

Mr. MONDALE. Will the Senator yield just on that one point which the Senator from Connecticut raises?

Mr. WEICKER. Yes.

Mr. MONDALE. We never had Mr. Welch's name because we never wanted it. We never asked for any names of any foreign operatives, because it was not necessary to our investigation and we did not want it. In fact, the record discloses, as we looked into it later, that the CIA had urged Welch not to move into that house, because it had been known in the community that that house had been the residence of the previous head of the CIA in Greece. So when we look into the record, our committee and the House committee had absolutely nothing to do with the tragedy concerning Mr. Welch.

Mr. YOUNG. Did not the members of that committee and more than 70 staff members have access to all of this kind of information?

Mr. MONDALE. No, because we were very careful never to ask that kind of information, because we had anticipated that kind of problem.

For example, we often let CIA officials come in and testify under pseudonyms. We did not want to know their names. It was not important to our work. What we wanted to know were issues that went to the question of accountability and control.

Mr. HUDDLESTON. Will the Senator yield at that point?

Mr. YOUNG. I yield to the Senator from Mississippi first.

Mr. STENNIS. Mr. President, a parliamentary inquiry, if the Senator will yield.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. I understand that this comes on the time, now, of the other side?

The PRESIDING OFFICER. That is correct.

Mr. RIBICOFF. I yield some on our side.

Mr. HUDDLESTON. As a Member of the Senate committee that investigated our intelligence operations, I want to confirm what the distinguished Senator from Minnesota and the Senator from Connecticut have indicated regarding the tragic death of Richard Welch. I do this only because this matter has been brought up several times and has been used to try to denigrate the activity of the committee and the need for the oversight committee.

As Senator Mondale said, the investigating committee did not seek and did not have the identity of Mr. Welch. One further point that should be made is that it has never been established that the revelation of his identity had anything at all to do with that unfortunate occurrence. I think this matter should be put in proper perspective and that Members of the Senate should realize that that unfortunate occurrence really had no relationship to what we are discussing here today. As a matter of fact, proper oversight may very well help to eliminate or at least diminish prospects that situations similar to that of Richard Welch will occur again.

Mr. YOUNG. I am pleased to know that the committee feels there was no such leak. But the point I am trying to make is that there is no possible way to have a large intelligence committee with a staff of 60 or 70 and not have very damaging leaks such as this.

Mr. STENNIS. Mr. President, I yield myself 12 minutes. I agree to the alternating of speakers side to side, as far as that is concerned, but I do want to make these few remarks now.

Mr. President, I want to make clear that I have nothing except compliments for the select committee, the members of the special intelligence committee who have been investigating these matters. I not only assume, but I believe they acted in good faith. There are no charges to be made, by inference or otherwise.

Mr. President, we are dealing today with a problem that is not one of individuals; we are dealing with a major part of our foreign policy. We can simplify all of this greatly by just withdrawing and surrendering our position in international affairs. But if we are going to continue in the role of a world power, which I do not think we can abandon, we are going to have to have intelligence and we are going to have to adopt special rules and make concessions to handle it. That is what was done with the passage of the original CIA Act.

It was put into operation by the respective congressional committees on a kind of general understanding. The

Senator from North Dakota has been a part of that for some years, as have the Chairman of the Committees on Appropriations, Armed Services, and Foreign Relations, and others. It has been a special setup.

It was not perfect by any means. We cannot legislate an arrangement here today, or any day, that is perfect. But we did, by common consent, realize this had to be handled in a special way.

Now, this amendment, Mr. President, which we propose does not touch the CIA. It does not change the Cannon resolution as to what you are going to do about the CIA. It does not undertake anything of that kind to limit the new committee in its investigative oversight power, including power with respect to what I should call strictly military intelligence.

Having tried to state what it does not do, I want to refer now to what this amendment does do. But at the very threshold of this whole problem I want to say I do not think we can ever have a system that will work unles it jibes with and coordinates with the system of the House of Representatives. We are talking about legislation, dealing with legislative affairs, authorizations, appropriations, debates and sessions, and reports and staff work. All of those things we cannot possibly operate independently of the other body. Somewhere along the line this plan, however well motivated, will fail, I think, because it lacks that essential threshold requirement.

I have said before that a joint committee of the House and the Senate, a special joint committee, was, I thought, the route to go if we were going to have a special committee, and I believe we will have to come back to that.

What does this amendment do? It passes up all these matters that I have mentioned and merely takes out of the Cannon resolution as written now the matter of legislation and funds for the DIA and the NSA and other groups in the Department of Defense and within the services. Those items, under this amendment, would not have to go through this budget process. They would not have to be authorized as we use that term in legislation. I am one who favors authorizations, generally. But under this amendment funds for those strictly military operations would be excepted. They would not have to go through the process of authorization where the amount of money and the amount of manpower become involved. Now, these are the key points, gentlemen: An authorization, the amount of money, the amount of manpower, not only in totality but for some of these major divisions would have to be set forth and be binding on this body once the authorization process has been met as required by the resolution. It would be binding on this body in open or secret session, and then be binding on the Appropriations Committee and binding on this body when the appropriations bill came back for passage.

I am talking about the Department of Defense appropriation bill. The authorization will not be binding on the House of Representatives, not binding on their committees, not binding on their representatives at the conference that it has always had on the Defense appropriation bill. Now, that is the basic condition that this resolution, whatever its virtues may be, does not solve. It creates this additional fatal defect, I respectfully say, that will keep this system, as proposed, from working.

Our amendment merely undertakes to take out of that process this authorization.

Now, just a word on this. By and large over the years the real foreign intelligence has been highly valuable to our Nation. The military intelligence has been highly valuable, and in all the things the select committee found—and I am ashamed of a lot of those facts—there was not much, Mr. President, that was attributable to the military services.

I do not come here to defend them. I just say it is a fact that, according to your record a very small percent of the wrongdoing, the evil things that were uncovered, were attributable to the services. There you have that military chain of command, there you have the military discipline, and I pray God we will always have that discipline; there you have their pride of service and responsibility.

Anyway, the part of this operation this amendment covers is limited solely to the armed services, and there are certainly not a great deal, a great number of things evil, in all of this proof that can be attributed to them. There are no dirty tricks that they pulled. They just were not in on these matters, except in a slight degree, and that was under some special orders more or less from the Presidents of the United States during unrest and turmoil and high uncertainty.

If I may just relate this incident, talking about uncertainty, I was on my way to Capitol Hill one morning, driving my own car. Down there, very near the White House I was literally stopped, bodily stopped, and these organized groups threw a blanket over my windshield so that it was impossible to move forward.

Well, I had the presence of mind enough to know that I had better stay in the car rather than get out, but they had effectively stopped the operation of the Government so far as one Member of this body was concerned, and that is what their purpose was. I think maybe it was some of that group, the then President had had some of the military looking in on, trying to find out their motives. I know the group was successful, and this body could not have convened that day had all Senators suffered the fate that I had suffered.

I was finally released. By whom? By one of their own, one of their own group, one of the group which was stopping the operations of the government, who came up there and pushed the others out of the way and said, "This is a damned shame." He pulled that blanket away and told me to drive forward. Well, I persuaded them to let me drive backward. But I got out.

That is just a little of the atmosphere prevailing here when some of these activities might have been carried on where some part of the army got a little over the line. But of the evil about which we are also concerned, not much of it is attributable to this group.

If we have to make up a budget and any committee has to go through the process, the ordinary budget process, and bring an authorization in here and argue it, debate it, and then another committee, Appropriations, has to take it and operate under it and come back, and then if the Appropriations Committee goes over the line items subject to a point of order, all the debate back and forth could be day after day and time after time, and that is where some information will get out. I do not accuse anyone of intentionally leaking or telling anything, but it will get out. It is inevitable. It has before and it will now.

Then when we would go to the conference on the proposed authorization bill the other side is not bound by it anyway.

What kind of disclosure am I talking about?

Our friend here has already mentioned the Manhattan project that brought us the atomic bomb. I was not here then.

I refer to the U–2 which was the aircraft which became known as "the spy in the sky."

I can say on my responsibility that the activities of that group saved us billions of dollars by giving us information that caused us not to make mistakes as to the kind of weaponry we would build; I suggest that literally saved us billions of dollars.

I pass on to another. Take the efforts to raise the Soviet submarine. That went on over a period of 4 years.

By the way, I do not want to be a member of any new committee, whatever form it will be. I have been through, I believe, my share of sleepless hours about these projects.

For over 4 years we were on the verge there of getting from that sunken submarine a regular mine of information, to learn about codes and many, many other things. If there had ever been suspicion—no one had to tell it to kill it, if there had ever been suspicion—that we were carrying on that activity, that would have been the end of it because they would, naturally, have come in, and we would have had to go away.

It finally fell through for other reasons, as we know.

These are not imaginations, these are actual facts of life.

I do not support the resolution as a whole because of the defect I described in the beginning. I beg, beg even, because it is so important, that Senators reconsider the matter. Let us put in this amendment so as to have a special category.

The PRESIDING OFFICER (Mr. NUNN). The Senator's 3 minutes have expired.

Mr. STENNIS. One minute.

Put in a special category on the highly important, necessary, unusually sensitive items, and just say as a fact of life that they cannot go through the ordinary process. We will find another way to be effective, because the budget

[illegible]ess, the authorization, the debates, [illegible]he point of order just cannot apply. [illegible]. President, how much time is there [illegible]is amendment?

[illegible]e PRESIDING OFFICER. Fifty-nine minutes.

Mr. STENNIS. I thank the Chair.

Mr. President, I yield the floor.

Mr. RIBICOFF. Mr. President, I yield myself 10 minutes.

Mr. President, this amendment would deny the new committee any legislative, authorization, or oversight jurisdiction over the intelligence activities of the Department of Defense.

It would fundamentally alter the compromise language offered by Senator CANNON last Wednesday.

I must strongly oppose this proposed amendment.

The new committee must have concurrent legislative and authorization jurisdiction over the national intelligence activities of the Department of Defense for the following reasons:

The Department of Defense is the Nation's primary collector of intelligence information. It controls 80–90 percent of the Nation's spending on national intelligence programs, and most technical collection systems are developed, targeted, or operated by Department of Defense personnel. The Department also supplies a great deal of information to nonmilitary intelligence agencies. It provides critical information of national security policymakers on a multitude of issues including strategic arms limitations [illegible] peace in the Middle East.

[illegible]ccordingly, the executive branch [illegible]s the DOD intelligence activities as an integral part of the entire national intelligence community. For example, in February, the President charged a new committee on Foreign Intelligence, chaired by the Director of Central Intelligence, with responsibility for overseeing and coordinating the Government's entire national foreign intelligence program, including DOD's intelligence program.

If the new committee did not have jurisdiction over the defense intelligence agencies, it would be denied jurisdiction over most of the intelligence community.

It is very important to achieve the proper relationship between the civilian intelligence agencies and the military intelligence agencies. The two different types of agencies must work closely together to assure as accurate and unbiased intelligence as possible for use by all military and civilian decisionmakers. It would be difficult to achieve this goal if responsibility in Congress for the intelligence community was split up so that one committee was responsible for the civilian intelligence agencies and one the military intelligence agencies.

The Department of Defense has an enormous technological capability that could be used to violate the rights of American citizens. Past disclosures of wrongdoing have included the DOD as well as the FBI, CIA, and other agencies. [illegible] example, the select committee has [illegible]ted to the following abuses:

[illegible]st. Millions of private telegrams [illegible] from, to, or through the United States were obtained by the National Security Agency from 1947 to 1975 under a secret arrangement with three U.S. telegraph companies.

Second. An estimated 100,000 Americans were the subjects of U.S. Army intelligence files created between the mid-1960's and 1971.

Third. Army intelligence maintained files on Congressmen because of their participation in peaceful political meetings under surveillance by army agents.

Fourth. As part of their effort to collect information which related even remotely to people or groups in communities which had the potential for civil disorder, army intelligence agencies took such steps as: sending agents to a Halloween party for elementary school children in Washington, D.C. because they suspected a local dissident might be present; monitoring protest of welfare mothers' organizations in Milwaukee; infiltrating a coalition of church youth groups in Colorado, and sending agents to a priests' conference in Washington, D.C. held to discuss birth control measures.

Fifth. Army intelligence officers opened the private mail of American civilians in West Berlin and West Germany.

Sixth. The military joined other intelligence agencies in drafting the so-called Huston plan in 1970, and later participated in the Intelligence Evaluation Committee, an interdepartmental committee established by the Justice Department to analyze domestic intelligence information.

Just this past weekend the select committee released a 49-page report describing in detail abuses by the Defense Department intelligence activities. It describes how the DOD collected information about the political activities of private citizens and private organizations, monitored radio transmissions in the United States, investigated civilian groups considered threats to the military, and assisted law enforcement agencies in surveillance of private citizens and organizations.

The same expertise gained by the new committee through oversight of the CIA and FBI could and should be used to oversee the DOD's intelligence activities so that civil liberties are protected.

A committee with the necessary resources must closely examine the DOD intelligence agencies to avoid duplication and inefficiency and assure the best intelligence possible. The Defense Department spends billions on intelligence. Yet the Deputy Secretary of Defense, Mr. Ellsworth, testified before the Government Operations Committee in January that—

> The problem that we have had with the Defense Intelligence Agency, as I see, is the same problem that we have generally with all intelligence in this Nation. That is, there are weaknesses in the quality of analysis and estimates that our intelligence community provides to us.
>
> I do not think that there is anyone in the intelligence community that would take issue with that.
>
> Our objective is, as far as the DIA is concerned, to very substantially improve the quality of the analysis and estimates that the DIA produces for the Secretary of Defense and the Joint Chiefs of Staff.
>
> If we cannot achieve that objective, then we have got to think of some other way of structuring defense intelligence activity so that we can improve the quality of the finished intelligence product.

Problems with DIA exist despite the fact that DIA's problems have been recognized for a number of years. In 1970, the Fitzhugh report, containing the conclusions of a blue ribbon defense panel organized by the executive branch, criticized DIA's performance, concluding that "the principal problems of the DIA can be summarized as too many jobs and too many masters."

In order to avoid waste and duplication, and improve the quality of intelligence generally, the intelligence committee must have an overview of all national intelligence activities. It must be able to make choices between programs within and outside of DOD and to make changes in the way all the agencies operate and are organized. Without authority over DOD's national intelligence activities, the new intelligence committee's jurisdiction would be incomplete in a crucial respect.

The pending substitute to Senate Resolution 400 recognizes that, to be effective, the new committee must have legislative and authorization authority over the intelligence activities of the Defense Department. At the same time, it is written in such a way to protect fully the interest of the Armed Services Committee in intelligence matters.

Under section 3(b) the Armed Services Committee will share with the new committee legislative and authorization authority over bills involving DOD intelligence. Any legislation, including authorizations, reported by the new committee and involving DOD intelligence activities will be sequentially referred to the Armed Services Committee upon request of its chairman.

Section 3(c) of the resolution assures the Armed Services Committee the right to continue to investigate the national intelligence functions of DOD in order to make sure that the intelligence agencies are providing DOD the intelligence it must have to operate effectively.

Section 3(d) provides that the Armed Services Committee will continue to receive directly from all intelligence agencies the intelligence it must have to continue to carry out its other responsibilities. One of the responsibilities of the new committee will be in fact to make sure that the intelligence agencies are promptly providing the other committees of Congress the information they should have.

Section 4(a) requires the new committee to promptly call to the attention of other committees, such as the Armed Services Committee, any matters deemed by the select committee to require the immediate attention of such other committees. Section 8(c) provides the new select committee with the authority and responsibility to adopt regulations that will permit it to share sensitive information with other committees in a way that will protect the confidentiality of the information.

To assure that there is close cooperation between the new committee and the Armed Services Committee, the substi-

tute reserves two seats on the committee for members of the Armed Services Committee.

The substitute does not give the new committee any legislative, authorization, or oversight responsibility for tactical intelligence. Responsibility for this type of intelligence will remain solely within the jurisdiction of the Armed Services Committee.

The new committee will only have jurisdiction over that portion of DOD's intelligence activities which provides national intelligence that DOD, the State Department, the President, and others in the executive branch need to make broad national policy decisions. The definition of intelligence in section 14(a) of the substitute to Senate Resolution 400 specifically excludes from the committee's jurisdiction tactical foreign military intelligence. The new committee will not have jurisdiction over tactical intelligence which seeks to meet the more specific technical interests of the weapons developers and field commanders.

As a practical matter, the national intelligence portion of the DOD budget may be authorized by the new committee, in conjunction with the Armed Services Committee, apart from the rest of the DOD budget.

The distinction between national and tactical intelligence is an accepted one in the executive branch.

The Defense Department already prepares a consolidated defense intelligence program which includes expenditures for intelligence of the type covered by this resolution, but excludes "intelligence related activities which belong in the combat force and other major programs which they are designed to support." The Director of Central Intelligence already prepares a national intelligence budget. Indeed, President Ford's recent executive order gives the executive branch's Committee on Foreign Intelligence—CFI—headed by the Director of Central Intelligence, responsibility to control "budget preparation and resource allocation" for the national foreign intelligence program. The President's directive provides, however, that the Committee on Foreign Intelligence will not have responsibility for tactical intelligence.

The final report of the Church Committee on Foreign Military Intelligence similarly indicates that it also was able to separate national from tactical intelligence and to arrive at separate figures for each.

Distinction between the different types of intelligence are in fact already being made for Congress by the Department of Defense as part of the budgetary process.

In September 1975 the chairman of the House Appropriations Committee wrote the Secretary of Defense as follows:

> The committee is concerned about apparent attempts to lessen the visibility of intelligence funding. Therefore, the committee directs that the 1977 budget presentations include manpower and dollar amounts for intelligence, direct support, and intelligence-related activities.
>
> The committee insists that the total cost of intelligence be presented to the Congress, and by requiring submission of justifications for these programs the committee hopes to assure the accomplishment of this goal.

Mr. Ellsworth testified before the Government Operations Committee concerning this letter that,

> The Defense Department and agencies are following this directive and are supplying to the committee a thorough justification of intelligence and intelligence-related activities in the fiscal year 1977 budget.

Mr. Ellsworth indicated that in the material being prepared for the House Appropriations Committee, the Defense Department was in fact attempting to distinguished between tactical and national intelligence despite, his testimony that the distinctions were difficult to make precisely.

In discussing Senate Resolution 400 before the Armed Services Committee last Thursday, Mr. Ellsworth did not argue that it was impossible to authorize separately the type of national intelligence activities covered by Senate Resolution 400.

There may be gray areas where it is difficult to decide whether a particular activity belongs to tactical or national intelligence. It may take the new committee several years to finally settle, in consultation with other interested committees and the executive branch, the precise dimensions of the budget.

But these technical budgetary issues can be removed. The Comptroller General wrote the House select committee November 10, that—

> Once the Congress has outlined the activities which it wants identified and reported in the intelligence budget, it will be possible to establish guidelines for the executive branch to follow in developing and submitting the budget.

The responsible committees of Congress have every right to know as exactly as possible how much DOD spends on intelligence. To the extent that this information is not available now, it should be one of the first jobs of the new committee to work with the executive branch to make sure it is available in the future.

The fact that it may take some study and work to settle all the questions is no reason to deny the new committee the crucial authorization power it must have to exercise effective oversight.

In summary, the proposed substitute to Senate Resolution 400 will assure the Armed Services the ability to have access to intelligence information, and the ability to consider legislation, including authorization legislation, involving DOD intelligence. The resolution creates a new committee that can work with the Armed Services Committee in this area so that the time-consuming and difficult work necessary to oversee the intelligence committee will not have to fall on the Armed Services Committee alone.

Mr. TOWER. Will the Senator yield for a question?

Mr. RIBICOFF. I am pleased to yield.

Mr. TOWER. I would like to suggest to the Senator from Connecticut that the Stennis-Tower amendment does not touch the question of oversight, only the question of legislation. It is addressed only to the legislative section of the resolution and not on the question of oversight.

It does not take away the authority for oversight on the part of the new select committee.

Mr. RIBICOFF. That may be tr[illegible]

Mr. TOWER. The power to su[illegible]a or what have you.

Mr. RIBICOFF. But in order to d[illegible]s job, and do it properly, we do believe that it is important that the new committee share with the Armed Services Committee the legislative functions involved, and I believe that this can be done. It should be kept in mind that we have provided for sequential review in such cases by both committees.

What puzzles the Senator from Connecticut is the hesitancy by the Armed Services Committees to really trust the remainder of the Senate in this way.

It has been provided in the Cannon substitute that 8 members of this committee will be taken from Armed Services, Foreign Relations, Appropriations, and Judiciary.

These are four committees that in the past have had jurisdiction—legislative jurisdiction, oversight jurisdiction, of the intelligence community.

What we are doing is adding seven more members to the committee, four from the majority and three from the minority. These seven men will be chosen by the majority and minority leaders. I, for one, have complete confidence and trust in the majority and minority leaders. My feeling is that these seven men will represent a cross section of the Senate, especially the younger men of the Senate, who have just as much of a stake, and whose integrity I have [illegible]st as much confidence in, as I do the [illegible] members from the other committees.

I have high respect for the [illegible]tinguished Senator from Missi[illegible]i. There is not another Member of this 100, may I say to the Senator from Mississippi, for whom I have a higher respect and higher regard. I think the Senator from Mississippi appreciates that from the past experiences we both have had. I have complete faith in him.

On the other hand, I think the Senator from Mississippi and the Senator from Texas should realize that there are other Members who have arrived in recent years, some of the most able Members this body has ever had, and who are as deeply concerned and as deeply committed as the senior Members of this body.

Consequently, I think it is absolutely necessary, in order to have the complete support and complete confidence of the Senate in basic decisions that will be made in the future, that the committee have 15 members, with 7 members chosen from the Senate at large and 8 from Appropriations, Judiciary, Foreign Relations, and Armed Services.

Mr. President, at this time, on my time, I would like to accord the distinguished Senator from Georgia a colloquy on some problems that are bothering him as a member of the Armed Services Committee. I think the colloquy will clarify some of the questions that other members of the Armed Services [illegible]mittee do have.

Mr. NUNN. I thank the Senato[illegible]om Connecticut. I express my gratitu[illegible]nd appreciation as a Member of the Sena[illegible] to the Senator from Connecticut and the Senator from Illinois, on the Government Operations Committee, and to the

Senator from Nevada and the Senator from West Virginia, on the Rules Committee for all the diligent work which has gone into this.

I really have three separate lines of questioning, but I will start with the question of whether or not there is anything in the pending substitute to Senate Resolution 400 which would require public disclosure in any form of the amount spent on intelligence.

Mr. RIBICOFF. No. Senate Resoluiton 400 creates a new committee and defines its jurisdiction. It does not try to decide the important issue whether the intelligence budget should be disclosed publicly, and, if so, in what form. The new committee is encouraged by section 13(a)(8) to study this issue. I would expect the full Senate to give this difficult issue full consideration after the new committee submits any recommendations it may have on the matter no later than next July 1.

Section 12 establishes a procedure which assures that, for the first time, the intelligence activities subject to the select committee's jurisdiction will be authorized on an annual basis. The section constitutes a commitment, on behalf of the Senate, that funds will not be appropriated for these agencies before such an authorization. Approval of an authorization, however, may be given in a way that keeps the figures secret, just as now the Senate appropriates funds for intelligence in a way that maintains the secrecy of the figures.

Mr. NUNN. I thank the Senator from Connecticut.

Another question along that line:

When the select committee reports an authorization bill for intelligence funds, how will the full Senate then consider the matter, assuming that the Senate has decided to continue to keep these figures secret?

Mr. RIBICOFF. If the Senate decided to continue to keep the overall figures secret, the process could work this way:

In the case of authorizations for defense-related intelligence activities, any bill reported by the new committee would be sequentially referred to the Armed Services Committee. As in the case of sequential referral of other legislation, there would be no need for full Senate debate prior to this sequential referral. The authorization figure would then be disguised in the DOD authorization bill approved by the Armed Services Committee, as is the case now.

In the case of an annual authorization for the CIA, after the select committee approves an authorization, I would expect that the figure would be disguised in some other authorization measure.

Mr. NUNN. I thank the Senator. I think that is extremely important, and clarifies a point that has been of considerable concern to the Senator from Georgia and I think many other Senators.

Another question along the same line: How would the new committee bring a matter involving the intelligence authorization figure to the attention of the full Senate, assuming the figures are still secret?

Mr. RIBICOFF. In that event, the Senate could invoke the same procedure for a secret session now available to the Senate. Under rule XXXV, the Senate could go into closed session and debate the matter in secrecy, just as they could debate the intelligence budget now in secret session.

Mr. NUNN. A further question: Will the requirement in section 12 for an annual authorization of the intelligence budget interfere with the ability of the Appropriations Committee to appropriate funds for intelligence in a timely fashion?

Mr. RIBICOFF. The committee authorizing expenditures for intelligence activities would be subject, like other committees, to the requirements of the Budget Act. The committees will have until May 15 to complete action on authorizations for intelligence. At the same time, the Budget Act contemplates that the Senate will not act on approriation measures until after May 15. This would apply to appropriations for the intelligence community. Assuming that all the committees adhere to the Budget Act, the requirements in section 12 will not affect the schedule the Appropriations Committee would follow for the appropriation of intelligence funds.

Mr. NUNN. One clarifying question on that latter point: I understand the timetable and that we may have to revise that timetable as the budgeting process is reviewed; but suppose, for instance, in terms of the overall intelligence activities, that there is a sequential referral of the annual authorization from the Intelligence Committee to the Armed Services Committee. I understand that under the provisions of Senate Resoltuion 400, in the case of such a referral the Armed Services Committee would be allowed to have that bill for 30 days. Suppose the Intelligence Committee gives them the bill on, say, May 14. Then the Armed Service Committee would be right up against the May 15 deadline. I suppose the committees would just have to work together under those circumstances.

Mr. RIBICOFF. I would say so. I would assume that the Intelligence Committee would, on a basis of comity, adopt a schedule that would assure that the Armed Services Committee had the full 30 days to do its job.

It should be remembered that on the Intelligence Committee there will be two members of the Armed Services Committee, and I personally would be very disappointed in the Intelligence Committee if they did not make sure that any committee entitled sequentially to 30 days would have the full 30 days before May 15 to comply with the Budget Act.

Mr. NUNN. I thank the Senator. I have another line of questioning on this point: Under present law, the Committee on Armed Services has authorizing jurisdiction over all of the military personnel and all of the civilian personnel in the Department of Defense. The manpower requirements report indicates that there are 42,000 military personnel, 9,500 civilians, and 5,300 reservists in the overall manpower authorization for fiscal year 1976 for the intelligence and security category.

My question is, With the new Intelligence Committee having authorizing jurisdiction over Defense Department intelligence, how would the two committees handle the manpower authorization which relates to Defense Department personnel in general, but also includes intelligence personnel?

Mr. RIBICOFF. Let me respond to the distinguished Senator from Georgia and the distinguished Senators from Mississippi and North Dakota, who are so deeply involved in such matters: This is the type of situation where, in my opinion, it would first go to the Armed Services Committee and then, sequentially, to the Intelligence Committee. You would come first, in my opinion, where the bill is a general Defense Department manpower bill.

The Armed Services Committee would continue to have exclusive jurisdiction over all aspects of the legislation except for the portion affecting national intelligence. The portion of the legislation affecting national intelligence would be reviewed by both the Committee on Armed Services and the new committee, under section 3. It would be up to the new committee and the Armed Services Committee to work out the details on the procedure for actual consideration by both committees of the intelligence portion of this bill.

Mr. STENNIS. Mr. President, will the Senator yield to me and let me intervene on that same point?

If the Senator will yield, I appreciate the suggestion of the Senator from Connecticut, but the bill, as I understand it, provides to the contrary, that it would go to the Intelligence Committee first. Senators will understand that our hearings on manpower start in the fall of the year, before the budget even comes in.

Mr. RIBICOFF. Well, basically it is up to the Parliamentarian, in a sequential referral, on the basis of what is in the bill. If it is basically armed services, it goes to the Committee on Armed Services first. If it is basically intelligence, it goes to Intelligence first. It is my personal interpretation that if it provided for overall manpower, covering the entire Department of Defense, commonsense would dictate—and, of course, the Parliamentarian is the final judge—that that would go to armed services first.

The PRESIDING OFFICER (Mr. ALLEN). The allotted time has expired.

Mr. RIBICOFF. I yield myself 2 more minutes.

It would go to Armed Services first, because intelligence would be only a part of the overall Department of Defense manpower authorization.

Then out of that would be carved out only the intelligence portion, which would then be referred sequentially to the Intelligence Committee.

May I say for the benefit of the Senate that it is my feeling that there are a lot of gray areas in this legislation. It is impossible to answer all the questions. We are going to have to work it out between all the committees and the In-

telligence Committee. All the interested committees will have to exercise a great deal of commonsense.

I would say much will depend upon the quality of that 15-member committee. Also, I think it should be pointed out that the reason why we have a resolution, and the advantage of the resolution, is that a resolution does not bind the executive branch. If this is to work, we will have to have comity between the executive branch and the Senate of the United States. I personally believe that the greatest problem America has today in the matter of foreign policy is not our problem with foreign governments or our prospective opponents, but the divisions between the executive branch and the legislative branch. I think the greatest problem we suffer as a nation in the field of foreign policy is the conflict, we have gone through in the last few years between the executive and legislative branches of the Government in the whole field of foreign policy.

The PRESIDING OFFICER. The Senator's additional time has expired.

Mr. RIBICOFF. I yield myself 2 more minutes.

Here is an opportunity for the Senate and the executive branch to work closely together with the Intelligence Committee, to work out the problems of broad policy, for the executive branch to gain a sense of what the Senate is going to do, and what the sentiment of the Senate is. I can think of no greater blow to the executive branch in our foreign policy than to find our Nation embarrassed over a matter like Angola. If the executive branch had gone before a committee like the Intelligence Committee and had obtained the sense of this 15-member committee that it just would not fly, it would never have developed into such a matter of conflict, to the embarrassment of our Nation.

I have confidence in the majority and minority leaders, that the men they will choose will make this committee work in a way that benefits the Senate and the United States.

Mr. NUNN. Mr. President, may I ask one further question on that manpower matter?

Mr. RIBICOFF. I yield.

Mr. NUNN. It is my interpretation, from what the Senator from Connecticut has said, that the overall manpower authorization, as it is now, would be submitted to the Armed Services Committee, the Armed Services Committee would act on that manpower request, just as it acts on other requests, and then the portion of the manpower proposal dealing with intelligence would be referred to the intelligence committee for their review. Is that correct?

Mr. RIBICOFF. That is the way I interpret it.

Mr. NUNN. If there were a difference between, say, what the Committee on Armed Services authorized in terms of manpower and what the intelligence community authorized in terms of manpower how would that difference be brought to the Chamber?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NUNN. I know the Senate would resolve it. But how would it be brought to the Chamber?

Mr. RIBICOFF. Mr. President, I yield myself 1 additional minute.

I suppose the Senate would have to resolve this as they resolve all other conflicts. There is no difference. The Senate eventually is going to decide, and they will have to make that decision. But again, looking at the makeup of the committee, with eight members coming from basic committees and seven from the remainder of the Senate, and the Committee on Armed Services being well represented by two members, personally I do not think we are going to have any problems. I do not think we are going to ble that jealous or that shortsighted in this body.

Mr. NUNN. I thank the Senator from Connecticut.

Several Senators addressed the Chair.

Mr. RIBICOFF. I yield to the distinguished Senator from Nevada, after which I yield to the Senator from Illinois.

The PRESIDING OFFICER. How much time is yielded?

Mr. CANNON. Will the Senator yield me 1 minute?

Mr. RIBICOFF. I yield the Senator 1 minute.

Mr. CANNON. Mr. President, on May 17, 1976, the hearings on Senate Resolution 400, having been concluded, the director of the National Legislative Commission of the American Legion, desiring to express its attitude toward Senate Resolution 400, sent me a letter setting forth a resolution adopted by the National Executive Committee of the American Legion—on reaffirming "the American Legion support for a viable intelligence community." In light of the colloquy, just preceded, between Senator NUNN and Senator RIBICOFF, I think it appropriate at this point, and I, therefore, ask unanimous consent that the letter and resolution be printed in the RECORD.

There being no objection, the letter and resolution were ordered to be printed in the RECORD, as follows:

THE AMERICAN LEGION,
Washington, D.C., May 17, 1976.

Hon. HOWARD W. CANNON,
Chairman, Senate Committee on Rules and Administration, Russell Senate Office Building, Washington, D.C.

DEAR CHAIRMAN CANNON: It is my understanding that a floor vote to invoke cloture on S. Res. 400, to establish a Standing Committee of the Senate Intelligence Activities, will occur later this week.

The National Executive Committee of The American Legion recently met in Indianapolis, Indiana and adopted the enclosed resolution (Foreign Relations Res. No. 23) reaffirming our strong support for a viable intelligence community.

Mr. Chairman, the Legion hopes that you will keep our views and recommendations in mind when the measure is considered by the full Senate.

Your attention to this request is appreciated.

Sincerely,

MYLIO S. KRAJA,
Director, National Legislative Commission.

Resolution No. 23.
Committee: Foreign Relations.
Subject: Reaffirm American Legion [illegible] for a viable intelligence commu[illegible]

Whereas, credible intelligence op[illegible]s are indispensible to any nation's security and deterrence; and

Whereas, there is presently a massive and sustained attack on the American intelligence community which has the effect of discrediting all intelligence operations; and

Whereas, these continuing attacks have already seriously impaired the functioning of the CIA, hampering the collection of worthwhile intelligence by the Central Intelligence Agency, and the CIA is also experiencing great difficulty in gaining cooperation from some foreign intelligence agencies; and

Whereas, without credible intelligence operations, the United States becomes a blinded warrior incapable of insuring even its own survival; and

Whereas, at a time when America's intelligence community has been seriously impaired, the KGB has expanded to an estimated 300,000 agents, domestic and abroad, with close cooperation from intelligence services which it has trained in Romania, Hungary, Cuba and other nations; and

Whereas, leaks of legitimately classified information with profound impact on our national security have become commonplace; and

Whereas, no Congressional oversight of the intelligence community will be effective in the absence of specific statutes concerning the leakage of classified information which effects our national security; and

Whereas, the British Official Secrets Act of 1911, as amended by the Official Secrets Act of 1920, has effectively safeguarded classified information without infring[illegible]nt on civil rights in a free and democra[illegible]o-ciety; and

Whereas, the U.S. Supreme Court [illegible]ognized the need for safeguarding [illegible]ified information in the New York Times publication case when Justices Stewart and White concurred that "it is clear . . . that it is the constitutional duty of the executive—as a matter of sovereign prerogative and not as a matter of law as the courts know law—through the promulgation and enforcement of executive regulations to protect the confidentiality necessary to carry out its responsibilities in the fields of international relations and national defense;" and

Whereas, it is obvious that executive orders and regulations alone can no longer control the unauthorized release of classified information; and

Whereas, the U.S. Congress faced and responded to similar situations, namely the enactment of 50 U.S.C. 783(b), 18 U.S.C. 798 and the Atomic Energy Act; and

Whereas, in the Scarbeck case, the Court of Appeals of the District of Columbia pointed out that the Congress fully intended to permit a prosecution without violating the same national security that 50 U.S.C. 783(b) was designed to protect; now, therefore, be it

Resolved, by the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on May 5–6, 1976, that we reaffirm our support for a viable intelligence community which adequately advises the U.S. Congress of its major activities and one which operates within the current statutes and safeguards; and, be it further

Resolved, that we support enactment of federal legislation which would clarif[illegible]d strengthen the safeguarding of classifie[illegible]-formation, and would provide formidable penalties for violation of its provisio[illegible]nd, be it further

Resolved, that this legislation must recognize fully the spirit of the Scarbeck case, namely that prosecution under the act should not violate the same national security that the statute was designed to protect; and, be it further

Resolved, that this legislation should clearly prohibit the classification of infromation which does not effect the national security of the United States.

Mr. LEAHY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. RIBICOFF. I had yielded to the Senator from Illinois.

Mr. PERCY. Mr. President, I am happy to yield.

Mr. LEAHY. Mr. President, I ask unanimous consent that Douglas Racine and Herbert Jolovitz of my office staff be accorded privilege of the floor during consideration and votes on Senate Resolution 400.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, the Senator from Connecticut wishes to have a 3-minute colloquy and ask a few questions at this point. The Senator from Illinois wishes about 10 minutes sometime before 1 p.m. I think we have held the floor, and the proponents of the amendment may wish to have time now.

I am happy to defer my comments until afterwards, depending on the wishes of the Senator from Mississippi.

Mr. RIBICOFF. Mr. President, I yield to the distinguished ranking minority member as much time as he wishes.

Mr. MUSKIE. Mr. President, will the Senator yield me 3 minutes?

Mr. RIBICOFF. I yield 3 minutes to the Senator from Maine.

Mr. MUSKIE. Mr. President, I have a more complete statement covering my support of the compromise resolution, but in light of the colloquy which has taken place between the distinguished Senator from Georgia (Mr. NUNN) and the distinguished floor manager of the bill, part of which related to the budget process, I shall make some brief observations on it from that point of view.

Mr. President, I rise and support the establishment of a new Senate committee with legislative jurisdiction over the national intelligence community.

Senate Resolution 400, as favorably reported by the Committee on Government Operations, would have created such a permanent committee. The substitute reported by the Committee on Rules and Administration would not have established the kind of committee that the times demand. The compromise amendment (No. 1643), proposed by the two committees, would set up a new select committee with sufficient authority to exercise those responsible uses of power that are required.

As the American people now know so well, Congress' 40-year informal method of overseeing the activities of the Central Intelligence Agency, the National Security Agency, the Federal Bureau of Investigation, and other agencies involved in domestic and foreign intelligence has been careless and ineffective. Their host of intelligence agency abuses, violations of the law, covert operations, and infringements on civil liberties—without the knowledge of Congress—has been revealed by the Rockefeller Commission and the Senate Select Committee on Intelligence Activities.

The Senate must take the lead to start anew in fulfilling the constitutional role of controlling the Nation's purse strings and formulating national policy. Vigilant legislative oversight over the intelligence activities of the United States is very much in order to assure that such activities are in conformity with the Constitution and the laws of the land.

From the Budget Committee's viewpoint, a new select committee with jurisdiction over the national intelligence budget on an annual basis fits right into the congressional process of analyzing and controlling the budget.

The aggregate outlay of the various intelligence agencies is significant. At this time, Senate committees deal with parts rather than the whole. Intelligence spending is not looked at in terms of national priorities or priorities within our foreign-defense policies. "Neither the Armed Services Committee nor any other committee has the time, because of its other duties, or the necessary overall jurisdiction to attend to the Nation's intelligence system," Senator CHURCH testified before the Committee on Rules and Administration. He added that—

> The executive budgets for, and organizes and directs the national intelligence effort in a way that draws together the various components, and unless the Congress establishes a committee that can do the same, it will continue to fail in its oversight responsibilities.

Section 3 of Senate Resolution 400, as amended, would provide for periodic authorization of appropriations for the CIA and other intelligence agencies. Each March 15 that committee would submit a report on intelligence spending for the forthcoming fiscal year to the Senate Budget Committee. This is what every authorizing committee does now, in accordance with section 301(c) of the Congressional Budget Act of 1974. Section 4(c) of the compromise resolution reads:

> On or before March 15 of each year, the select committee shall submit to the Committee on the Budget the Senate views and estimates described in section 301(c) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

Reports to the Committee on the Budget would be received and handled in a manner consistent with the protection of national security.

It seems to me that the colloquy between Senator RIBICOFF and Senator NUNN covers this point very well, from my point of view.

Another aspect of the legislative process involved here is helping to restore Congress role as a coequal branch of Government. I agree with the "Minority Views" statement set forth by Senators PELL, WILLIAMS, CLARK, and HATFIELD in the Rules Committee report:

> In failing to adequately control the activities of the intelligence agencies abroad, Congress, in effect, has appropriated funds without knowing how they would be spent by the executive to carry out foreign policy objectives. Without the knowledge or approval of the full Congress, the CIA has received funds to carry out paramilitary operations in Chile and Laos and assassination attempts against a number of foreign leaders. At the same time, Congress has refrained from demanding access to vital intelligence information concerning matters of foreign policy upon which it is called to act.
>
> By establishing an effective oversight mechanism, Congress can assert its right to essential information and begin to define the proper limits of secrecy in a democratic society.

A Select Intelligence Committee in the Senate with authorizing powers is essential. This committee must have primary authority to consider and act on the annual budgets for the intelligence agencies within its jurisdiction. By controlling the purse strings, the select committee and Congress will have restored its rightful role in directing America's future intelligence activities—and America's future.

I thank my good friend from Connecticut for yielding me this time to support him in his efforts and to compliment him on the effective way in which he has handled this issue and the problems connected with it.

The PRESIDING OFFICER (Mr. LEAHY). Who yields time?

Mr. WEICKER. Mr. President, I have a question which I intend to direct to the amendment.

Mr. RIBICOFF. Mr. President, I yield 2 minutes to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I address myself to the amendment of the distinguished Senators from Texas and Mississippi.

In the "Dear Colleague" letter they sent out, they said:

> The amendment would provide:
>
> 1. It would remove from the proposed new select committee legislative jurisdiction over Department of Defense intelligence. The rationale is twofold. First, it would minimize the possible disclosure through the long and debated process of authorization of sensitive intelligence figures. Rather than being separately "authorized by a bill or joint resolution passed by the Senate", as required by the Substitute, Defense intelligence figures would continue to be included in various parts of the Military Authorization and Appropriation Acts. I cannot overstress the damage to defense intelligence that could flow from budget clues which would enable foreign powers to determine information and trends on our highly sophisticated electronic and satellite activities.

The difference I have with the Stennis-Tower amendment is that I think it is absolutely unconstitutional.

I bring to the attention of the distinguished Senators article I, section 9 and that clause which reads:

> No money shall be drawn from the Treasury, but in consequence of Appropriations made by Law; and a regular Statement of Account of the Receipts and Expenditures of all public Money shall be published from time to time.

What seems rather unsettling to me is that as men sworn to uphold the Constitution of the United States apparently we have some system or some procedure that de facto supersedes the very specific requirements of the Constitution. It does not say in the Constitution an account of the receipts and expenditures of all public money except those allotted to

intelligence activities. It says all public money, all money.

And as much as I appreciate the thrust of the comments in the Chamber, which is to try to keep these moneys from public view, it seems to me that, if that is what they desire to have accomplished, then I suggest a constitutional amendment. But to me the duty placed on us in this body, in the legislative branch, and the executive branch, is very clear, as mandated by the Constitution of the United States, regardless of what the process has been in the past, and the process has been a direct violation of the Constitution of the United States.

I ask either the Senator from Texas or the Senator from Mississippi as to whether or not they feel that the way matters have been handled in the past, in fact, is an exception to this requirement of article I, section 9?

Mr. TOWER. Mr. President, I shall respond to the Senator from Connecticut. Can he cite any decision of the Supreme Court of the United States that has held that our previous procedures in the matter of budgeting our intelligence activities are unconstitutional?

Mr. WEICKER. No, for the simple reason that everyone is perfectly willing to go along with the old system, and that is exactly what is under attack today and has been for many weeks. The old system did not work, it broke down. And that is exactly why the legislation is before the Senate now, and to go back to the old system——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WEICKER. Mr. President, will the Senator yield me 2 additional minutes?

Mr. RIBICOFF. I yield the Senator 2 additional minutes.

Mr. WEICKER. To go back to the old system invites the disasters that have been revealed during the course of the past year.

But I repeat, I do not care what was done; I am insisting, as I think others are, that the Constitution be explicitly followed, and to me it is not whether we want to obey it or do not want to obey it, the language is very specific:

. . . a regular Statement of Account of the Receipts and Expenditures of all public Money. . . .

Is the Senator from Texas telling me: Yes; there should be an exception insofar as this public money is concerned? That is all I ask.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. STENNIS. I yield 3 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, as I read this provision of the Constitution, I see nothing that requires a line item disclosure of every expenditure of the Government of the United States. It is not done in other departments. In fact, we do publish these figures by generic category. We do not publish everything in a line item way. If we did, we would have to list the salaries of every individual hired by the Government of the United States and the Congress of the United States.

Mr. President, I think it is significant that there never has been a court case on this. Apparently, the people of the United States are prepared to accept the fact that if this country is going to have an intelligence-gathering capability, some things must be kept secret.

The fact is that there is no public outcry for this oversight committee. There is not such an outcry outside of a 50-mile radius of Washington, D.C. We become so inundated when we read the Washington Post and the New York Times, and by what we hear from the network commentators, that we must have the impression that the American people are out there shivering in fear of the vast abuses of the intelligence-gathering community of the United States. Bunk.

There is an anti-Washington sentiment abroad in this land, but it is not focused on the FBI, the CIA, the DIA, or the NSA. It is focused on the fact that we have failed to exercise proper oversight over all agencies, departments, bureaus, boards, and what have you, that intrude themselves on the daily lives of our citizens. If there is a fear of a police state in this country, it is generated by the fact that every American's life is touched by the arbitrary acts of some bureaucrat operating under what he conceives to be or perhaps does not conceive to be a mandate from the Congress of the United States, which has delegated away its legislative authority.

Mr. WEICKER. If that is the response to the question I asked the Senator from Texas, it is a very effective presentation of his case, but it does not respond to the constitutional issues that I raise.

Nobody has asked for a line item budget, but I think the Senator from Texas is well aware that the total intelligence figure never has been released to the American people until the latest hearings came along; and even then, there is a tremendous disparity. The House thinks $9.7 billion; the Senate committee thinks $10 billion. But nobody in the Armed Services Committee has given to the American people the total—never mind line item—of moneys spent on intelligence. Have they or not?

Mr. TOWER. Mr. President, to begin with, there would be great difficulty in separating that which is purely intelligence and that which is not, because there are many agencies of Government that gather intelligence just as an ancillary function to what their line responsibility is. It cannot be separated. You cannot say that this Government employee has spent 1¾ hours in a 40-hour week on gathering intelligence; therefore, we must figure out what percentage of his salary goes into the intelligence budget.

The fact is that there never has been a test of the constitutionality of this. The fact that there is no precedent for holding this to be unconstitutional, in my view, means that what we have done in the past is constitutional, until there is such a test. Again, I think it is significant that there never has been such a test, because no citizen has ever questioned what we have done.

Mr. NUNN. Mr. President, will the Senator from Texas yield?

Mr. STENNIS. Mr. President, I yield myself 1 minute.

I know that the Senator from Connecticut is a mighty good lawyer; but under a strict interpretation of the Constitution as he has advocated, we would have to publish everything every day and we would not need all these cautions. That would kill the entire resolution, I say respectfully. All the unbroken custom is to the contrary. There are records of every appropriation. It is accounted for. But the law does not require it for the CIA.

Mr. NUNN. Mr. President, will the Senator yield me 1 minute?

Mr. STENNIS. I yield to the Senator from Georgia. The Senator from Connecticut has the floor. I yield to the Senator from Georgia.

Mr. NUNN. Mr. President, will the Senator yield me 30 seconds?

Mr. STENNIS. I yield 1 minute.

Mr. NUNN. We just went through a colloquy, a minute ago, on the question of revealing the overall budget. It is very plain in the committe bill and in the colloquy I just had with the Senator from Connecticut (Mr. RIBICOFF) that nothing in this bill requires the overall budget to be revealed.

One of the mandates for study by the new committee is to determine how to handle that very question. So under either the Tower amendment or the Cannon substitute, the same question, the constitutional question, that the Senator from Connecticut has raised applies, and it has no bearing, as I see it, on whether the Tower amendment should or should not be agreed to. It is a question that would apply to the Cannon substitute unamended or the Tower amendment if it is agreed to.

Mr. WEICKER. I think the answer is very clear that under the Cannon substitute, the question can be studied, and all our options are available to us; but under the Stennis-Tower amendment, that automatically, by virtue of what we are doing here, cuts us off from ever being able to get those figures and publishing them. So there is a definite difference between the two.

Mr. CANNON. Mr. President, will the Senator yield me 30 seconds?

Mr. WEICKER. I yield.

Mr. CANNON. I think we have to read article 1, section 9, clause 7, together with article 1, section 5, clause 3, which reads:

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy . . .

So the two have to be read together.

It is obvious that either House can require secrecy as to this part of the budget or other items that may require secrecy. We have to read both those provisions of the Constitution together, I believe.

I thank the Senator for yielding.

Mr. PERCY. Mr. President, will the floor manager of the bill yield me 10 minutes?

Mr. RIBICOFF. I yield.

Mr. PERCY. Mr. President, first, I shall comment on the colloquy that the distinguished Senator from Connecticut (Mr. RIBICOFF) had with the Senator from Georgia. I found that colloquy extraordinarily reassuring.

The Senator from Illinois has been deeply concerned about unauthorized

public disclosure. Certainly, we have no intention or desire—and it is not in the national interest in any way—to have methods that we may use for intelligence gathering on various projects that are undertaken to be revealed publicly simply by someone being able to trace authorized amounts that have been made public.

On the basis of the colloquy that has been carried on, I have come to the conclusion that it is possible to authorize intelligence activities without public disclosure; that you can authorize such sums and explain it in a classified report; that differences can be debated in a closed Senate session and notes taken on a sense of the Senate resolution which can remain secret. The specifics will not have the force of law but will have the same impact as the Senate will be making its decision.

The Senator from Texas (Mr. TOWER) has indicated in his previous comments this morning—if my notes are correct—that the new committee still would have oversight authority even if stripped of legislative authority under the amendment. The point of the Senator from Illinois, in response to that, is simply this: A committee without legislative authority but only with oversight responsibility means that a committee's only recourse is public disclosure. It really has no legislative remedy.

In response to the comment of the distinguished Senator from Texas (Mr. TOWER) that no one outside a 50-mile radius of Washington cares about this matter, that no one cares about it other than those who read the New York Times and the Washington Post, I respond by saying that is not true in the State of Illinois. It is not true in the State of Indiana, where the Senator from Illinois has been recently. It is not true in a number of areas that can be testified to by the editorials that are available. The entire country is looking to Congress now to find a way to have effective oversight. They are counting on us.

Mr. President, I ask unanimous consent to have printed in the RECORD, as quickly as I can obtain it, an editorial from the Chicago Tribune, and the San Francisco Chronicle that evidences that deep concern with respect to the practices of the past and the expectation that the U.S. Senate is going to deal with this issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HARNESSING THE CIA

The essence of President Ford's reorganization of the foreign intelligence services lies in the focusing of responsibility on the President and on a three-member oversight board which will receive continuing reports on all intelligence activities and will report directly to the President.

The other changes and restrictions, sound though they may be, will be only an effective as the President and the oversight board make them. It is impossible, after all, to foresee all of the methods an intelligence agency might use. Mr. Ford's restrictions cover only a few of the more common or shocking tricks of the spy trade that surfaced during last year's hearings; planned assassination of foreign leaders, illegal opening of the U.S. mail, infiltration of domestic groups, and so on. Next time it could be something entirely unforeseen.

The past time of the CIA were committed under a system of supervision so loose as to be nonexistent. Vague suggestions from the White House were translated into sinister plans and activities which, in many instances, the President didn't want to know about and would never have specifically approved. The new system will work only if the President and the oversight board use their judgment as well as the rules in determining what activities are justified and what are not.

The highly controversial question that remains is how deeply Congress will become involved. It is quite proper and indeed essential that Congress be repersented in the mechanism for overseeing intelligence operations. It always has been, through the agency of certain committee chairmen. That things got out of hand under the old system was as much the fault of these congressmen as it was of the executive branch.

Mr. Ford's proposal is that Congress create a joint intelligence committee to be kept fully informed of all intelligence activities. This would be better than the old system in that it would provide a more formal and systematic means of supervision. The question is whether the committee members would have the necessary maturity and proved discretion, and whether the committee's activities could be kept totally free of politics, which would be essential if the haggling and leaks of the recent House Intelligence Committee are to be avoided.

These are big questions. Already some Democrats are referring to Mr. Ford's changes and proposals as a "first step" in the "reform" of our intelligence operations. What are the next steps? When some of them say "reform," we're afraid they really mean "emasculation" by indiscriminately publicizing every activity that they happen to disapprove.

A good illustration is the decision of the House to consider holding CBS correspondent Daniel Schorr in contempt for the recent publication of the intelligence committee's report. We don't defend Mr. Schorr's behavior for a minute, as we've already made clear. But the duty to protect the secret information was not Mr. Schorr's; it belonged to the members and staff of the intelligence committee. It was they who violated their trust. It is they who should be identified and punished. Yet, so far, the House seems more interested in looking elsewhere for its villains.

Obviously Mr. Ford is right in wanting Congress to patch up its own leaks before it is made privy to any more secrets.

Most members and employes of Congress, we're sure, can be trusted. The trouble is that it takes only one leak to do the damage. So before scrambling for a place in the line to receive further CIA secrets, we suggest that congressmen move slowly—first by demonstrating a willingness to impose the same restraints on themselves that they want imposed on the CIA and that the President wants imposed on employes of the executive branch, and then by setting up a committee like the one Mr. Ford has proposed and making certain that its members and staff are of the highest caliber available.

NEW OVERSIGHT FOR THE CIA

A PERMANENT NEW committee with authority to oversee U.S. intelligence activities seems likely to come into being thanks to a compromise worked out in the U.S. Senate. The committee will have 17 members with a nine-year limit on length of tenure. Most importantly, it will have purse-string control over the CIA.

The whole question of placing a legislative rein on intelligence work is a touchy and debatable one due to the nature of covert activities. Spreading authority too widely and allowing too many persons to be "in on the know" removes the essential element of secrecy, as has been shown by widespread leaks from congressional panels investigating our intelligence structure.

This power to limit the CIA's budget and thus its activities was a key element of the compromise worked out between the Senate's old guard and more reform-minded members. At one point Nevada Senator Howard W. Cannon's rules committee had voted to give the new committee no law-making or budgetary authority. Its present posture, however, gives it most of the policing powers originally recommended by the now-defunct Church committee that looked into illegal activities by our spies.

Everything will depend, of course, on the selection of Senators for the committee who can keep their eyes open for intelligence abuses but their mouths shut while they're being dealt with.

Mr. PERCY. Mr. President, the question comes up as to whether or not a consolidated committee is desirable and whether or not defense intelligence should be included. My point simply is that because of the interlocking character of intelligence, the President's Executive order puts the DCI over all intelligence, including national intelligence, but excluding tactical intelligence.

The compromise substitute offered by the distinguished Senator from Nevada (Mr. CANNON) does exactly the same thing. The administration, as I understand the testimony that witnesses gave, supports the concept of placing all intelligence in one committee. The administration made it clear that to avoid the proliferation of testimony which Mr. Colby said consumed, in 3 years, 60 percent of his time, leaving him only 40 percent of his time to administer the Central Intelligence Agency, it would prefer a joint committee. But they have made it clear that if it is the wisdom of the Senate and the House to decide on separate committees, that is our decision. And it is the decision of the Committee on Government Operations, the Committee on Rules, and the compromise group that have worked together that the Senate of the United States should establish its own committee.

I wish to read to my distinguished colleagues the words of Mr. George Bush, Director of the Central Intelligence Agency. Mr. Bush said:

The Central Intelligence Agency welcomes strong and effective congressional oversight. We have a great deal to gain from it. We gain the advice and counsel of knowledgeable Members. Through it, we can maintain the trust and support of the American people. We will retain the support only so long as the people remain confident that the political structure provides clear accountability of our intelligence services, through effective executive and congressional oversight.

Good oversight will insure that the intelligence agencies operate as the government—and the Nation—wish them to. But in establishing this accountability; I believe the Congress must also insure that oversight enhances, rather than hinders, the vital operations of our intelligence agencies.

Certainly, the Senator from Illinois has been deeply concerned about this. I have been satisfied that the compromise resolution takes that into account.

I close the quotation from Mr. George Bush by quoting this sentence:

And so I urge concentrated oversight.

What he does not want is fractionalized oversight. The Director of Central Intelligence would like to have effective, meaningful oversight, but concentrated oversight.

I turn to the testimony given before the Committee on Government Operations. I wish to point out several prominent people who have testified, first from the Senate itself. Senator MANSFIELD emphatically believes in the creation of a new committee that would provide consolidated oversight. Senator CHURCH said:

We need a new committee. The work cannot be done on a piecemeal basis or by a subcommittee of another standing committee which is primarily engaged in a different preoccupation. It will require a well-staffed committee directing all of its attention to the intelligence community.

Senator BAKER favors a new committee. He said:

The greater good would be the prompt creation of a new standing Senate committee on intelligence oversight, even if this leaves to another day resolving the questions of prior notification of sensitive operations and the authority of the Senate to disclose classified information.

In all fairness, I would like to point out that our distinguished colleague from Texas (Mr. TOWER) did come in and testify. He opposed the creation of a new committee. Senator TOWER made it clear that he wants to leave reforms to the existing standing committees. But certainly, the Committee on Rules and Administration and the Committee on Government Operations overwhelmingly decided that that course was not one that we would recommend that the Senate follow.

Secretary Rusk testified. He testified that he was shocked to find, as Secretary of State, how many things were being done by intelligence agencies, not under his direct, day-by-day jurisdiction, but that involved foreign policy. He was shocked later, when he left office, to find how much had been carried on. He also stated very clearly to us that he would like to see a committee as quickly as possible.

Former Attorney General Katzenbach favors a new committee.

David Phillips, the president of the Association of Retired Intelligence Officers, stated that 98 percent of his membership favors some form of a new committee.

Mr. Colby, the past Director of CIA, said that he is in favor of "'a new committee with exclusive jurisdiction for the oversight of foreign intelligence."

McGeorge Bundy, former Assistant to the President for National Security, favors a new committee.

Mr. John McCone strongly urged a new committee.

Mr. Clark Clifford, former Secretary of Defense, favored a new committee.

Mr. Richard Helms said, "It is up to the Congress whether or not to have a new comimttee," but he thinks a committee would be an improvement.

So, overwhelmingly, it seemed to the Senator from Illinois, and unanimously to the members of the Committee on Government Operations, a new committee was needed and is necessary. On whether defense intelligence should be included or not, we came to the unanimous judgment in the Committee on Government Operations, on a vote of 16 to 0, that is should be included. DIA plays a role in covert actions—for example, the Schneider killing during the Chile Track II operation. Army counterintelligence was found spying on innocent Americans, bugging, taping, and opening mail.

As I pointed out before, the 5th Army was discovered performing intelligence operations—following the activities and keeping dossiers on such distinguished Illinois citizens as my distinguished colleague, Mr. ADLAI STEVENSON, who I presume was just as shocked as anybody else to learn that he and many prominent people were being followed by the 5th Army and dossiers were being kept on them. Obviously, it has been revealed by our own intelligence committee how much spying on innocent Americans was engaged in without proper oversight.

Military clandestine intelligence activities were supervised by the CIA. When we consider that only half of what the CIA spends comes from its own appropriations—the other half comes out of Defense appropriations through transfers or advances—certainly, it is desirable and necessary, I think mandatory, to include defense intelligence.

The question can be raised, what would the compromise substitute do to the jurisdiction of the Committee on Armed Services? The compromise would give the new select committee concurrent jurisdiction over major intelligence agencies of national importance, NSA and DIA. It would also have concurrent jurisdiction over joint defense-CIA programs and over clandestine military intelligence activities now supervised by the CIA.

The Committee on Armed Services would continue to have jurisdiction in this area and would continue exclusive jurisdiction over the bulk of tactical military intelligence. It is not impossible, as has been pointed out, to sort out these national intelligence elements from the defense budget. We have identified the relevant program elements.

The new Committee on Foreign Intelligence is charged with this task and with the responsibility for a national intelligence budget.

Certainly, the members of the Committee on Armed Services have a perfect right to ask this question: Will they, in the grave responsibilities that they have assumed and undertaken and have so ably carried out for so many years for the defense and security of the United States of America, be able to fulfill that function if they do not have the legislative authority over defense intelligence?

Certainly, the bill that is before us, the compromise version before us, in every conceivable way guarantees and insures that the end product of intelligence shall always be available to the Committee on Armed Services. There are not any ifs, ands, or buts about that assertion. Everybody in this body will know and recognize that they must have that, and the concurrent responsibility that they have over the defense budget seems to have been worked out in the compromise in such a way that I hope the majority of our colleagues today would defeat the pending amendment.

Mr. STENNIS. Mr. President, will the Senator yield briefly on this point?

Mr. PERCY. Would it be possible for this Senator to yield the floor to the distinguished Senator from Mississippi so he can speak on his own time?

Mr. STENNIS. I want to ask a question on my own time, if I may have 1 minute, Mr. President, on my time.

The Senator from Illinois used the term, "concurrent jurisdiction," and referred to the Armed Services Committee having concurrent jurisdiction. I do not believe the language will support saying that this resolution gives the Committee on Armed Services concurrent jurisdiction.

That means concurrent as to time, reference, and so forth. It permits the Armed Services Committee, as I see it, to obtain this matter, whatever the pending matter would be.

Mr. PERCY. I would like to have my distinguished colleague from Connecticut answer it, and then I would like to follow it with my own interpretation.

Mr. RIBICOFF. May I say to my distinguished colleague the word used is not entirely correct. It is not the intention by this resolution to put concurrent jurisdiction in the Intelligence Committee and the Armed Services Committee. We specifically call it sequential jurisdiction, not concurrent.

Mr. STENNIS. Mr. President, will the Senator define sequential as compared to concurrent.

Mr. RIBICOFF. Well, concurrent means both committees have jurisdiction at the same time. My understanding is depending on where the thrust is that one committee handles the matter first, as I discussed in my colloquy with the distinguished Senator from Georgia, and after the first committee completes action, it then goes to the other committee sequentially for a period of 30 days, to give them an opportunity to act on the matter that cuts across the jurisdiction of both committees.

Mr. STENNIS. Mr. President, if the Senator will yield 1 minute further on my time, the Senator's interpretation though would be to say the Parliamentarian would refer this matter first to the intelligence committee——

Mr. RIBICOFF. No, it depends—not necessarily.

Mr. STENNIS. No sequential reference.

Mr. RIBICOFF. If the matter is purely an intelligence matter it would go to the intelligence committee first. But if the matter is not predominantly an intelligence matter it would go to the Armed Services Committee, the Judiciary Committee or the Foreign Relations Committee, and it then, would be sequentially be referred to the intelligence oversight committee to consider only that portion that involved intelligence.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. STENNIS. Yes, I yield to the Senator from Illinois. The Senator from Connecticut thinks concurrent jurisdiction is not the term that applies.

Mr. RIBICOFF. That is correct.

Mr. PERCY. The interpretation of the Senator from Illinois is exactly the same. I would only like to add this comment: The Senator from Mississippi and the members of the Armed Services Committee are among the most overworked Senators in the Senate.

What the Senator from Illinois would hope would happen is that a tremendous burden of responsibility for a lot of follow-through on details in intelligence would now be taken over and assumed by the Select Committee on Intelligence Activities, providing to the members of the Armed Services Committee an assurance that the details of those programs have been looked to.

Thirty days would be available for another sequential look at it by the Armed Services Committee. But they have the assurance that 15 of their colleagues have spent months looking at these programs, and they can concentrate on their main job, which is providing for the national security of the United States, having available to them all the product of intelligence but not the necessity of overseeing all details of these programs, the ramifications of which are now apparent for all of us to see.

Mr. PASTORE. Mr. President, if the Senator will yield 5 minutes to me on this bill——

Mr. RIBICOFF. I would be pleased to.

Mr. President, how much time remains on each side?

The PRESIDING OFFICER. There are 34 minutes remaining on the side of the Senator from Connecticut, and 52 minutes remaining on the side of the Senator from Mississippi.

Mr. RIBICOFF. I would hope that after the time taken by my distinguished colleague from Rhode Island, the Senator from Mississippi will use some time. I am very anxious to give some time to the Senator from Kentucky, but my time is running out fast.

Mr. PASTORE. Mr. President, first of all, I congratulate the chairman and the members of the committee for the expeditious way in which they have handled this very important legislation. My regret at the moment is that apparently we have drifted into the sensitive question of committee jurisdiction.

We must remember, Mr. President, that what we are dealing with here now is not the composition of the committees today or the sensitivities of the various Members. What we are dealing with here today is the matter of how do we resolve this very important question that now confronts the Congress of the United States in a way that is for the public benefit.

I realize that in an open society it is always difficult to justify secrecy, living in the kind of a world we live in today. Realizing that we do have strong adversaries who would take us over in a moment if they have a chance, who conduct themselves in a secret way that goes far beyond what we have ever exercised in this country, we had better beware of what we do.

Now, Mr. President, this question came up in 1945 when the first atomic weapon was exploded, and the serious question was: What are you going to do about it? What are you going to do about it? Are you going to put it under civilian control or are you going to leave this destructive weapon under the sole control of the military?

The Congress of the United States went on record creating a joint committee.

It is regrettable that we cannot create a joint committee in this area, but maybe in time that will be accomplished. For the time being, something needs to be done, and there is not the concurrence at the moment between the Senate and the House that could bring about a joint committee, although ultimately that is the prime and the ultimate answer to this problem.

Now, what are we confronted with here? Under the Joint Committee on Atomic Energy it is written in the law that that committee must be fully and concurrently informed of all activities. If the decision of what the actions of the CIA should be will be left up to the Congress I would be against it. I would absolutely be against it because CIA comes under the jurisdiction of the National Security Council. But if all this amounts to is the fact that, like the Joint Committee on Atomic Energy, where we have not had one single leak from the time it was created, where we have been continuously, completely and currently informed by the military, by the civilians and by everybody else, if you are accomplishing this, I am all for it in this legislation, and that is the question I am going to direct to the chairman of the committee. If this legislation means that before the CIA can do anything they have to come up here and get permission of 5, 6, 10 or 15 Members of the Senate, I will be against it. But if it means that whatever they do from the moment they begin to do it they have to come up here and tell the committee, then I am all for it, and that is the question I would like to ask at this moment.

Is this putting the approval of the activities of the CIA in the control of Congress or is it merely giving Congress the authority, and mandatory upon the agency, to report everything that they do the minute they do it?

Mr. RIBICOFF. May I say that in devising this legislation we relied extensively and heavily on the experience of the Joint Committee on Atomic Energy. Under no circumstances is it the intention that this committee is going to tell the CIA or any other intelligence agency how to conduct its business on a day-by-day basis.

Section 11 says:

> It is the sense of the Senate that the head of each department and agency of the United States should keep the Select Committee fully and currently informed with respect to intelligence activities, including any significant anticipated activities which are the responsibility of or engaged in by such department or agency; provided, that this does not constitute a condition precedent to the implementation of any such anticipated intelligence activities.

Mr. PASTORE. That is taken out of section 211 of the Atomic Energy Act.

Mr. RIBICOFF. That is right. May I say we relied completely on the joint committee's experience.

Mr. PASTORE. Under that provision I cannot see how anybody can object to it because even in atomic energy or atomic matters the Armed Services Committee has a right to inquire. Actually they have a right to inquire and they do inquire. But, after all, there has to be a committee constituted by Congress to which these people are responsible, that the minute they undertake something they have to come up and tell the Congress.

Mr. PERCY. Mr. President, will the Senator from Rhode Island yield for a comment on his remarks?

Mr. PASTORE. I do not know how much time I have. I wish they had given me time to yield.

The PRESIDING OFFICER. The Senator has 1 more minute.

Mr. PERCY. One minute, if the Senator from Rhode Island will yield. The question he put was an extraordinarily good one, and one that perplexed the members of the Government Operations Committee throughout the course of the hearings. There was a body of feeling that this committee, if it were to be effective, should have prior approval, authority, and responsibility.

The Senator from Illinois from the outset was adamant that the Senator from Illinois would work against the creation of a new committee, and would fight it right down the line, if we started to move in and take over the responsibility of the executive branch of Government.

Mr. PASTORE. I am glad to hear that.

Mr. PERCY. We lose our oversight then.

Certainly, in discussing this with the President of the United States, he has agreed that the options, the problem and the various approaches would be committed to writing. It would be signed by a top officer. The President said, "by myself in extraordinary cases."

It would be available for oversight and for a study by the oversight committee, but we cannot become a part and parcel of the day-to-day decisions.

The PRESIDING OFFICER. The time has expired.

Mr. PERCY. And the judgment and experience of the Joint Atomic Energy Committee has been extraordinarily helpful.

Mr. PASTORE. I am glad to hear it.

Mr. STENNIS. Mr. President, I am glad to yield 15 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of amendment 1649, authored by the distinguished Senator from Texas, Mr. TOWER, and cosponsored by the chairman of the Senate Armed Services Committee, Mr. STENNIS, and myself, the ranking minority member of Armed Services.

This amendment would, in effect, remove from the proposed Select Committee on Intelligence the joint jurisdiction over the Department of Defense Intelligence Agencies. These would include the intelligence programs of the three separate services and the Defense Intelligence Agency and the National Security Agency.

It might be well to offer an initial and brief explanation of the activities of the agencies addressed in this amendment.

1. DEFENSE INTELLIGENCE AGENCY

The Defense Intelligence Agency is directly responsible to the Secretary of Defense and is the focal point of the military intelligence community. It maintains a balance in assimilating and analyzing the intelligence gathered by the separate military departments as well as its own efforts, all designed to enables the Secretary of Defense to act wisely on requests and programs of the military intelligence community.

2. NATIONAL SECURITY AGENCY

The National Security Agency deals with national or strategic intelligence and its collection and production apparatus serves not only the military, but other agencies of the Government such as the State Department and Treasury Department. The NSA is also the principal source for the National Security Council and ultimately the President because its work goes beyond strictly military applications. It is charged primarily with much of the electronic apparatus used in intelligence gathering.

3. SERVICE INTELLIGENCE

In addition, each of the three military departments has a limited intelligence apparatus which is directed primarily in those areas of concern to the particular department.

For instance, the intelligence service of the Air Force is targeted on foreign military aircraft and foreign activities related to the air power while the Navy's intelligence apparatus is concerned with intelligence gathering submarines and estimates of capability of the Soviet and other foreign navies.

Mr. President, the definition of the work of these military agencies shows this amendment is not a capricious effort to dilute the strength of the proposed select committee. It represents a well thought out proposal upon which I feel there is a solid basis for support. This amendment deals strictly with military intelligence by military or DOD agencies. It does not involve the Central Intelligence Agency. Therefore, I would like to list some points which I feel in support of adoption of amendment 1649.

1. OVERLAP WITH SERVICE BUDGETS

It will be extremely difficult to separate the expenses of the separate military departments from the defense budget and present it as a separate request to the select committee. It is now more an estimate, but if dealt with exclusively by a single committee, the problem of cost identification becomes most complex.

Practically all of the intelligence activities of the military departments are performed by military personnel. In any one fiscal year, an individual may be on an intelligence assignment for only a portion of that year. He may be in a school in which only a portion of that period of training involves his intelligence duties. How does one decide how much of his salary should go in the intelligence budget? How much of his training should be charged to the intelligence budget? How much of the support he receives in the way of vehicle use, air transportation, secretarial support would go into the intelligence budget?

These examples illustrate the difficulty in separating military intelligence activities from the defense budget.

Furthermore, there are certain intelligence support activities which do not require authorization, but are dealt with only as to appropriations. Here again we have the problem of separating these activities and in so doing, we come back to the often-stated problem of more disclosure and ultimately more danger to our intelligence people and the effectiveness of their missions. Before closing on that point, I would like to cite a few examples.

NAVY EXAMPLE

For instance, when a submarine goes out on a mission, a part of its work may involve intelligence gathering. However, it will have other missions and how DOD can separate the costs and expenses in such a situation is beyond my comprehension.

AIR FORCE EXAMPLE

As another example, one might take the case of a pilot flying an intelligence mission in a military aircraft. How much of the cost of the aircraft, his salary, or support costs would be charged to intelligence? This plane may be used once or twice a year on intelligence missions.

Also, our committee will still have authorization over research and development programs involving intelligence. Do we have to clear our actions with the select committee? The bill language is not clear on this point.

These are but some of the problems in separating such budgets. Others will reveal themselves if this separation is required by the Senate.

2. DISCLOSURE

Mr. President, there is no doubt in my mind that to support this new committee of 15 members and a staff whose size is not defined in this bill, will require much more disclosure on the simple basis the information is being spread among a greater number of people.

Here again we are putting another layer on top of the four responsible Defense committees and the very separation of the intelligence operations from defense operations is going to lead to much, much greater disclosure.

3. IMPROVING MILITARY INTELLIGENCE

Mr. President, this step, in my judgment, in no way improves military intelligence. It may well have just the opposite effect by making intelligence work less attractive for our more qualified people because of the threat of disclosure which results by proliferation of data.

There is nothing apparent to me in this bill which improves military intelligence. It merely inserts another layer of authority. The Senate must realize that those abuses in the past would be better corrected by passage of new laws rather than new layers of legislative oversight and authorization. I certainly favor strengthening the oversight of the past, but when a President tells the Army to augment the Secret Service at a political convention, the Army can hardly be blamed for obeying that order. Oddly enough, these orders were never revealed, even to the Joint Chiefs nor to the Congress so it would appear to me that a law to control the Chief Executive [illegible]uld answer this issue if such is the [illegible] of Congress.

4. ADDITIONAL EXPENSES

Also, it seems every time some problem arises in Government the solution is to reorganize, insert another layer of supervision, add 50 more GS–18's in the executive branch, set up a new committee in Congress with a large staff, and in general, throw money at the problem.

The fact is that allowing the select committee authorization and legislative jurisdiction over the Defense intelligence activities will mean that these agencies will have to add to their personnel strength in order to respond to the requests for information and data which will be forthcoming from these new layers of supervision.

The Senate appears to ignore the point that the abuses and problems of the past few years in military intelligence agencies represent only possibly 2 or 3 percent of the entire intelligence effort. Yet we are restructuring the entire authorization program in an attempt to deal with a problem representing only 2 or 3 percent of the total effort. These problems could be dealt with by laws to prevent such abuses rather than an attempt to manage military defense intelligence agencies. Military intelligence will no longer be an arm of the executive branch, but rather an arm of the Congress.

5. COORDINATION WITH HOUSE

Mr. President, another point f[illegible]ng this amendment is that the best inf[illegible]mation available to me indicates th[illegible]ouse of Representatives plans to dema[illegible]rom the Executive that the intelligence budget be submitted as in the past. This raises another problem in establishing a select committee in the Senate, especially when DIA, NSA and other military intelligence activities are involved. The CIA, being a civilian agency not answerable to DOD, could possibly be separated from the defense budget, but I fail to see how the military agencies could be realistically separated.

In summary, Mr. President, this amendment should be approved by the Senate for any one of the reasons I have mentioned: First, there is the overlap of service budgets in the Defense request. Second, the problem of disclosure through proliferation. Third, the fact that this offers no improvement of military intelligence, but rather weakens it. Fourth, additional expenses will result with little promise of improved intelligence production. Fifth, the problem of coordination with the House is highly aggravated.

Mr. President, these are but a few of the reasons I am cosponsoring the proposed amendment. This amendment makes a great deal of sense and I urge my colleagues to give it their most careful consideration before casting their vote.

Mr. President, I yield back th[illegible] remainder of my time.

Mr. STENNIS. I thank the Senator very much for his very timely [illegible]arks and very convincing argument.

Mr. President, the Senator did yield

back such time as he did not use, as I understand.

The PRESIDING OFFICER. The Senator is correct. Who yields time?

If neither side is yielding time, the time runs equally.

Mr. RIBICOFF. How much time remains on both sides?

The PRESIDING OFFICER. The Senator from Connecticut has 27 minutes and the Senator from Mississippi has 39 minutes.

Mr. STENNIS. Mr. President, the Senator from Arkansas (Mr. McCLELLAN) is to arrive later. There is such a slight attendance present, Mr. President, I ask unanimous consent that we have a quorum call for not over 4 minutes, to be equally divided, or 3 minutes.

Mr. RIBICOFF. I am also reluctant to have Senator HUDDLESTON or Senator Church talk to an empty Chamber. Senator CRANSTON has a colloquy. I would rather use 2 minutes in that fashion.

Mr. STENNIS. I withdraw my request.

Mr. CRANSTON. Mr. President, I am speaking primarily for purposes of legislative history, so I will be concise on this particular point.

Yesterday I suggested that certain language be added on page 12, line 7, of the pending substitute to clarify the standard which the President must apply in objecting to a committee determination to publicly disclose appropriately classified national security information submitted to the committee by the executive branch. Prior to raising this issue, I discussed this clarification with the distinguished floor managers of the bill and the Senator from Connecticut (Mr. WEICKER). They were prepared to accept the clarifying language that I was prepared to offer. However, when it developed that my clarification raised some questions with other Senators, I decided not to pursue the matter.

Yesterday, the Senator from Michigan (Mr. GRIFFIN) stated on page S 7414 that the Senate had "rejected" that clarification. I think the record will show that this was not the case at all. Indeed, the record will show that I did not formally offer an amendment but only raised a suggested clarification. There was no action of any sort taken by the Senate.

Mr. RIBICOFF. If the Senator will allow me to respond, that is correct. There was no formal amendment offered. There was a general discussion, and the Senator from California, if I recall, talked about his language. But, after considerable discussion, the language was not adopted. Changes were made after a discussion between the Senator from Michigan, Senator WEICKER, and myself, and I believe the Senator from California was in on that discussion.

Mr. CRANSTON. I thank the Senator. As the Senator knows, and as all Senators know, one reason that some of us are reluctant to offer amendments when there is not an agreement is that we have been working together in the spirit of compromise on a compromise proposal introduced by the Senator from Nevada. I am one who has worked on this compromise and, therefore, I have restrained myself from proceeding where we have not had general agreement. I know other Senators have done the same thing.

In regard to the matter that I brought up yesterday, it must be understood that neither this resolution nor rule XXXV nor XXXVI in any way establish the standard which the committee or the full Senate is to use in deciding in a vote if particular classified national security information should be publicly disclosed. That is a determination which each Senator must make for himself in deciding how he would vote in such a matter, using the standard and balance of competing considerations which he deems appropriate.

I would like to ask the Senator from Connecticut, the distinguished floor manager of this bill, who has performed so magnificently in this effort, for his understanding of the restraints that would be upon a President in the light of all this in deciding when to seek to persuade the Senate not to release information publicly.

Mr. RIBICOFF. The Senator may recall that the distinguished minority whip, the Senator from Michigan, had raised a question on page 12, line 8, concerning the use of the word "vital."

After discussion with the Senator from Michigan, I suggested alternative language so it would read:

* * * and personally certifies that the threat to the national interest of the United States posed by such disclosure is of such gravity that it outweighs any public interest in the disclosure.

So it is obviously our intention that the President would not act capriciously, but only act if it were a matter of gravity. Of course, none of us could tell the President of the United States what he considers to be a grave matter. I would assume, on the basis of comity, that the President certainly is not going to abuse his discretion. It is my feeling that the President will act responsibly, as I would expect the intelligent oversight committee would act responsibly, in determining whether a matter should be publicly disclosed.

I would imagine that the President would seldom issue a certification under this procedure, so as not to wear out his standing with the Senate. Yet I would not want to put into the definition what the President must consider a matter of gravity. I am confident the President will not act capriciously and that he will only act to certify that the matter should not be disclosed if he thinks that the threat to the national interest posed by such disclosure is of such gravity that it outweighs any public interest in disclosure.

Mr. CRANSTON. I thank the Senator. That clarifies this matter fully and adequately. Obviously, the Senate will always be able to make its own decision in its own way as to whether a matter is of such gravity or not.

I would like to ask the Senator just one other question.

Let us assume that the new committee on Intelligence receives information which is not classified under established security procedures. Let us also assume that the committee additionally has determined that the release of such classified information would not damage the national security of the United States. Is it the intent of this compromise version that the new committee would be able to release such information without referring it to the full Senate for review?

Mr. RIBICOFF. Well, if it is the type of information the Senator mentions, yes, the committee could release such information without referring it to the full Senate, since the compromise version anticipates that the process of Presidential certification will only be operative when the information is the kind described by section 8(b)(1) of this resolution.

The compromise version permits this new committee to hold hearings and otherwise function like any other Senate committee, if the information is unclassified, and the committee has concluded its release would not damage national security.

Mr. CRANSTON. I thank the Senator very much.

Mr. ALLEN. Mr. President, will the distinguished Senator yield me 3 minutes for a unanimous-consent request and explanation?

Mr. RIBICOFF. I yield.

AMENDMENT OF THE ADMINISTRATIVE PROCEDURES ACT—REREFERRAL OF S. 2715

Mr. ALLEN. Mr. President, I ask unanimous consent, with respect to Calendar Order No. 820, S. 2715, that that bill be rereferred to the Committee on Government Operations for a period of 30 days.

This bill was originally introduced and assigned to the Committee on the Judiciary and the Committee on Government Operations. The Judiciary Committee approved the bill, and while it was still before the Committee on Government Operations, the distinguished chairman of that committee (Mr. RIBICOFF) and the distinguished minority member of the committee, in order to permit the bill to come in before the May 15 budget deadline, waived the jurisdiction of the Committee on Government Operations in order that the bill might be reported prior to May 15.

I now request—and this has been cleared with the distinguished chairman of the committee (Mr. RIBICOFF) and the distinguished ranking minority member of the committee—that the bill be rereferred to the Committee on Government Operations for a period of 30 days.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

The Senate continued with the consideration of the resolution (S. Res. 400) to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

The PRESIDING OFFICER (Mr. STONE). Who yields time?

Mr. STENNIS. Mr. President, I yield myself 3 minutes.

I ask unanimous consent that Mr. Braswell, Mr. McFadden, Mr. Sullivan, and Mr. Kenney of the staff of the Committee on Armed Services be permitted to be in the Chamber during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I want to make clear, since some other Senators have come in, that there has been no reference here to any Senator not being trustworthy, or any suggestion that any Senator would go out and leak a matter of consequence. No one charges that, and never has. This matter is related to trying to reduce to a minimum the opportunities for exposure in one way or another, with reference to some of these item which are so sensitive and so material.

I have been hounded for years—in a good way, and I do not blame anyone—because I just would not say how much, so far as I knew, was included in what we have called the budget for intelligence. As I say, I do not blame anyone.

Mr. President, may we have order? I can hear people talking there at the desk.

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. So this is an effort not dealing with individuals, not a matter of who has what to do. We are talking about a system here.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. STENNIS. I yield myself 3 additional minutes.

We are dealing with a system here that will afford the most protection.

I notice, according to the press reports—and the committee has done a lot of fine work—that when the motion was made that the Intelligence Committee publish the total amount of the intelligence budget this year, there was disagreement, and the committee voted 5 to 4 not to make that discloure, but rather to refer it to the Senate.

I do not think there could possibly be a better illustration of the sensitiveness of this matter, and also of the differences of opinion about it. We all recognize there must be some protection, something less than total disclosure, and it shows that the more you get into it, the more you realize that that disclosure ought to be reduced to the very minimum.

Every time that the Senate has ever voted on this budget matter directly, it has refused to make this disclosure, whether in open session or in closed session. This conclusively proves, to my mind, the point that I have tried to make—the point that is reflected in the effort of the Senator from Texas, the Senator from South Carolina, and myself as the third author of this proposed amendment. It is just to make it more certain that we give these sensitive matters the maximum security.

When we kick a matter around through this Chamber and the various committees, with more staff, there are more opportunities for things to get out; not the substance, maybe, but matters from which inferences can be drawn. That is what Mr. Ellsworth says in his testimony, that the foreign countries which are not allied with us, our adversaries, have the most adept and most penetrating intelligence agents, and that from a mere morsel of information, or just an inference, they can piece things together as they study our processes from year to year and from time to time; and that increases or decreases in budgetary items can put them on the right track.

In this subject matter that we are trying to protect in this amendment, there are included not only the satellite programs, what they find and what they transmit, but all kinds of activities with reference to codes and working on codes, our own as well as others, as an illustration. It includes electronics of all kinds; some of it is very sensitive, some not. Some of it stays in the research and development area for years and years, and maybe never does emerge into an instrument of some kind. Then some of it does break through in the most valuable kind of instrument, weapons system, or part of a system.

Many of those projects prove to be worthless, it is true; but at the same time some of them have proven to be of immeasurable value and of far-reaching consequences; and should some inference get out or some basis for discovery get out in the beginning, in the middle, or at the end of all this long laborious effort, the entire venture would be killed.

Mr. President, so it is as to matters of that nature.

Another point has been mentioned. No one has charged anything. This does not raise the issue about civilian control and military control. Not one iota of that issue is here.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. STENNIS. Mr. President, I yield myself 2 additional minutes.

I personally always favored the two top officers of CIA, for instance, being nonmilitary so far as that point goes. But this is not an issue about civilian control or military control. This is in the field of intelligence that we regularly charge to the military. It is those funds to which we are trying to give the highest degree of protection and subject to the least amount of chance for exposure.

Mr. President, I say with emphasis that our amendment does not alter in any way the existing language of the Cannon substitute, so far as oversight of U.S. intelligence activities, including defense intelligence is concerned. This new committee, if the amended resolution is agreed to, will have full, unlimited oversight powers, with powers of subpena, and power for investigations of all kinds and over all kinds of intelligence.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. Mr. President, I yield myself 1 additional minute.

The select committee will have access, as I repeat for emphasis, to all intelligence it makes and full investigatory and subpena power over all intelligence activities.

I repeat for emphasis. Let us remember what we are trying to protect here are the very matters that have divided the committee and divided the Senate. It has always been in favor of nondisclosure as to these total amounts. There must be some basis for that position or the Senate would not have maintained that position all these years.

I yield the floor.

Mr. WEICKER. Mr. President, [redacted] the time of the distinguished Senator from Connecticut, I wish to ask a question of the distinguished Senator from Mississippi.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Mr. President, I yield the Senator 1 minute.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 1 minute.

Mr. WEICKER. If the amendment of the distinguished Senator from Mississippi is agreed to, what will it do to this committee? The Senator has stated, in other words, what it will not do. What will it do?

Mr. STENNIS. I covered that when someone had distracted the attention of the Senator in some way. There are positive things, and I spelled them out in a brief memorandum, but I have it written out in more formal language.

It would remove from the proposed new select committee legislative jurisdiction over the Department of Defense. The rationale is, first, it would minimize the possible disclosures through the long and debated process of authorization of sensitive intelligence figures. Rather than being simply authorized by a bill or a joint resolution, passed by the Senate alone, as required by this substitute, defense intelligence figures would continue to be included in various parts of the military authorization and [redacted] propriations acts. I cannot overstress that. And so forth.

But that is the point the Sen[redacted] very well raised.

Mr. WEICKER. It takes the power of the purse away from the committee, does it not?

Mr. STENNIS. Not entirely, but it gives defense intelligence matters back to the Committee on Armed Services rather than stripping the committee of that.

The PRESIDING OFFICER. The 2 minutes have expired.

Mr. WEICKER. Mr. President, will the Senator yield me 2 additional minutes?

Mr. RIBICOFF. I yield the Senator 2 additional minutes.

Mr. WEICKER. I suggest to the Senator from Mississippi that the whole purpose of the committee is to give it not only oversight but also the necessary powers to go ahead and act on its oversight. We have had unfortunately an ineffective system. This is not laying this fault at the door of the Senator from Mississippi. The system itself obviously has not adequately handled the intelligence community.

Why should this committee have any less power than any other committee of the U.S. Senate?

Mr. STENNIS. This would retain in the Committee on Armed Services legislative jurisdiction, as I have described. It leaves with the other commi[redacted] the oversight and access to everyt[redacted] included and the power to mak[redacted] recommendations also. We would si[redacted] give the Committee on Armed Ser[redacted]es primary responsibility for dealing with

these kind of matters only, and they c[illegible] recommend what they wished. I thank the Senator from Connecticut w[illegible]as made some good recommendati[illegible]

Mr. RIBICOFF. Mr. President, will the Chair please inform us concerning the amount of time remaining?

The PRESIDING OFFICER. The Senator from Connecticut has 17 minutes remaining, and the Senator from Mississippi has 28 minutes remaining.

Mr. RIBICOFF. Mr. President, because of the disparity of time remaining, I hope the Senator from Mississippi would use some more of his time.

Mr. STENNIS. Mr. President, I think the point is well taken. I will ascertain if I can.

Let us have a 2-minute quorum call on the time of the Senator from Mississippi.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the quorum call for 2 minutes be charged to our side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Under the previous order, the quorum call is rescinded.

Who yields time?

Mr. STENNIS. Mr. President, will the Chair indulge me for a minute?

[illegible] President, I am glad to yield to t[illegible]enator from Georgia (Mr. NUNN) 5 minutes. He has a relevant matter to pr[illegible]t. It is not on this amendment.

Mr. NUNN. Mr. President, is the Senator from Connecticut (Mr. RIBICOFF) in the Chamber? I see that he is present. He and I discussed this amendment.

Mr. President, section 8 of Senate Resolution 400, in the nature of a substitute, deals with a very important subject, and that is the right of Congress, in this case more particularly the Senate, to declassify information that the executive branch has classified.

Section 8, subsection (a), is very clear in its wording. Subsection (b) is also clear.

Section 2 of subsection (b) beginning on page 12, is also clear, and then we get down to section 3 of subsection 3 under (b) of section 8. This section reads:

> If the President notifies the select committee of his objections to the disclosure of such information as provided in paragraph (2), such committee may, by majority vote refer the question of the disclosure of such information to the Senate for consideration. Such information shall not thereafter be publicly disclosed without leave of the Senate.

I have discussed this section with both Senator BYRD and Senator RIBICOFF, as well as Senator CANNON, and it is clear from my conversations with them that the last sentence makes reference to and is premised on the President notifying th[illegible]elect committee of his objections. [illegible]s very clear in the conversations that the intent of the committee was th[illegible]nce the President notified the com[illegible]ittee that he objected to the release of this information, the information would not then be released until the full Senate was consulted and gave approval.

However, that last sentence is in a position which follows number 2 on line 12, page 12, which says that "such committee may, by majority vote, refer the question of the disclosure of such information to the Senate for consideration," and then that clause is followed by the word "thereafter" in the last sentence. One could interpret this section as meaning that after the committee, by majority vote, referred it to the Senate, there would be no disclosure without consultation with the full Senate.

The structure of this section could lead to an interpretation that I do not think the committee intends. The unintended interpretation would be, in effect, that the select committee could declassify intelligence information over the President's objections, if it did not, by majority vote refer the question of disclosure to the Senate. I do not think that is what the committee intends, and I am going to submit an amendment, which I will call to the attention of the Senator from Connecticut. I believe my amendment will clarify and make very clear that once the President objects, the committee, if they recommend the release of classified information, in effect declassifying that information, would have to refer it to the full Senate, and the full Senate would have to give leave.

The Senator from Connecticut may wish to respond.

Mr. RIBICOFF. I think the Senator should present his amendment.

Mr. NUNN. Mr. President, I send the amendment to the desk. I do not know whether it is in order. I ask unanimous consent that it may be in order to take up this amendment at this time.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Mr. President, reserving the right to object—and I shall not object on the merits of it—but the agreement is to vote at 2 p.m.; so we will be cut off in our debate if the amendment is not adopted in a short period of time.

Mr. NUNN. It is my understanding that the minority and the majority have agreed to this amendment.

Mr. STENNIS. All right. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 12, beginning with the word "such" on line 14 strike all through the word "Senate" on line 15 and insert in lieu thereof the following:
>
> "The committee shall not publicly disclose such information without leave of the U.S. Senate.".

Mr. RIBICOFF. Mr. President, as the manager of the bill, I am pleased to accept the amendment.

The PRESIDING OFFICER. The 5 minutes allotted to the Senator have expired.

The question is on agreeing to the amendment of the Senator from Georgia.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. I yield 5 minutes to the distinguished Senator from Kentucky.

Mr. HUDDLESTON. I thank the distinguished floor manager of the bill.

Mr. President, first, I want to reiterate my very strong support for the substitute version of Senate Resolution 400, creating a permanent oversight committee on the intelligence activities of this country. That support is predicated upon my experience during the past 15 months as a member of the Senate select committee investigating our intelligence activities.

It is based upon my firm belief that it is absolutely essential that this Nation have the strongest most effective, and most efficient intelligence organizations, both from the standpoint of collecting intelligence and the standpoint of processing and using that intelligence once it has been collected.

Second, it is based on my strong belief that it is essential that certain information be kept secret; that there is a necessity for this Nation to have secrets.

It is also my firm belief that the approach taken by the suggested compromise is the best way to insure that we have adequate intelligence, and adequate oversight.

I will have a further statement to make, or to place in the RECORD, as we approach final passage, regarding my support of the substitute amendment to Senate Resolution 400.

At this time, however, I offer my opposition to the amendment now pending. I oppose the amendment because it is contrary to the concept of national intelligence, a concept that has been embraced by the President of the United States in his own directive which establishes the Director of the Central Intelligence Agency as the supervisor and coordinator of all our intelligence operations. It is contrary to the recommendations of the select committee of the Senate that investigated intelligence, which makes a similar recommendation. More important, in fact, it is contrary to the facts of life as they apply to the intelligence community.

The amendment would take from the new oversight committee the legislative and authorization jurisdiction over Defense Department intelligence. That means that some 80 to 90 percent of both the collection and production of intelligence and the consumption of that intelligence would be outside the effective oversight responsibility of the new committee. I use the word "effective" because it already has been pointed out that to take legislative authority from an oversight committee would diminish tremendously its effectiveness so far as exercising the proper oversight responsibility is concerned. Oversight without legislative participation is toothless oversight, as all of us in this body know.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. HUDDLESTON. Mr. President, will

the Senator yield me 2 additional minutes?

Mr. STENNIS. I yield.

Mr. HUDDLESTON. But, not only do the defense intelligence operations comprise some 80 to 90 percent of our collection, production, and use of intelligence, they are also entities which have had their share of the abuses that have occurred, and for that reason alone should be within the effective oversight and responsibility of the new committee.

Mr. President, I think that the compromise as written—although, as has been pointed out, there are areas in which accommodations will have to be made among various committees—can be put into effect, can provide the effective kind of oversight for which there has been a crying need for a long time in the operation of the intelligence organizations of this Nation.

The pending amendment should be rejected, so that this new committee can have the full authority, together with the full responsibility, to provide the kind of oversight that is necessary throughout the intelligence community.

Mr. STENNIS. Mr. President, I yield 5 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I support the amendment.

I believe we have to divide intelligence, as we are discussing it here today, into many, many facets. The resolution that established the select committee, in my opinion, was a wise one. Our job, supposedly, was that of ferreting out wrongdoings so far as intelligence gathering was concerned with respect to the American citizen. That is one form of intelligence. We have intelligence gathered from embassies by tapping. We have intelligence gathered by mail.

Mr. President, I am anxious to support this amendment, and I call attention to the fact that the amendment would remove from the proposed new select committee legislative jurisdiction over the Department of Defense intelligence. Why is this important?

Last week, I read several books, with which hindsight always can provide us, as to what we actually knew about the intent of the Japanese before Pearl Harbor. It was amazing. Had we had a properly working intelligence agency at that time, with the information we had gathered from a number of sources, none related to the other, we almost could have predicted the attack on Pearl Harbor to the hour. We could have resisted it and defeated the Japanese without any trouble at all. But because we did not have an intelligence agency such as the CIA at that time, we depended upon the warring factions in the services and the civilians in the War Department and the President, himself. We got ourselves into a very costly war.

That is why I support this amendment—not to prevent the establishment of a committee to have so-called oversight, but to allow the Committee on Armed Services to have that sole jurisdiction because, Mr. President, I do not care if you have a committee of one, it is almost impossible to stop leaks. As hard as our special committee tried, we could not bottle them all up, and, of course, the House was a sieve. It leaked, leaked, and leaked.

Under the Committee on Armed Services, we would handle just that intelligence that applies to the military, nothing else—no interest in the FBI, no interest in anything except the intelligence that the military has to gather.

Mr. President, I remind my colleagues in this body who have had experience in war or experience with the military that the estimate of the situation is a little formula that we are taught almost before we know what the rest of the service is about. The primary part of the estimate of the situation is intelligence: What does the enemy have, what does the enemy intend to do with what he has, what does he know about what we have, and what does he know about what we intend to do with out intelligence? Then, by working the two against each other, we come up with some possible lines of action. But if this information is made public, as we watched it be made public from the other body and from leaks downtown, then the estimate of the situation gets to be pretty much of a joke.

I know Members of this body are concerned about covert action. I know that Members feel that we should disclose, among the oversight function, any covert action. Well, Mr. President, this is dangerous. Those of us on the Committee on Armed Services, in spite of what our colleagues might think, know of many, many covert actions that were practiced during the years, many of which prevented wars between other countries, many of which prevented ourselves from getting into trouble. So, military intelligence, to me, is a most sacred item and we should look on it as such; create a full committee to take care of the abuses upon the American people, but allow military intelligence to go as it has in the past. We have developed a very fine intelligence-gathering system. In fact, I just read on the ticker tape this morning that our old friend, Averell Harriman, has recommended to the Democratic Platform Committee that covert action not be stopped, that it be encouraged because, by covert action, properly done, we prevent wars; we do not get into them.

I am afraid if a 15-member committee is ever created and given the handle on military intelligence, covert action will become something that will be very overt and we will be fighting the battles on the floor of the Senate instead of doing it in a round-about, backward, sneaky way. Call it what you want, but by doing it that way, we will prevent American men and, now, American women from being called into battle.

I hope my colleagues will support this amendment. It is not an Earth-shaking amendment. It is not going to destroy the concept of the substitute Senate Resolution 400. It will, in my opinion, protect the best interests of our country.

Mr. RIBICOFF. Mr. President, I yield 1 minute to the distinguished Senator from North Carolina.

Mr. MORGAN. Mr. President, as I understand the amendment offered by Senators STENNIS and TOWER, it eliminates from the jurisdiction of the new select committee any jurisdiction over defense intelligence, which would include the Defense Intelligence Agency, the National Security Agency, and the intelligence activities of the three military departments.

Under the Cannon substitute,, the new select committee would have jurisdiction over defense intelligence, except for "tactical foreign military intelligence serving no national policymaking function."

Those Senators supporting the Stennis/Tower amendment argue that it is impossible, as a practical matter, to separate, for purposes of oversight, tactical intelligence activities from national intelligence activities. They therefore would opt for the Armed Services Committee to retain sole jurisdiction over all defense intelligence activities.

While I have great respect and admiration for the distinguished chairman of the Armed Services Committee, the findings of the Select Committee on Intelligence lead me to disagree with him on this point. I think that it is possible to separate those intelligence programs carried out by the Department of Defense which contribute to the national intelligence picture from those carried out to support tactical military units. The Department of Defense already distinguishes between tactical intelligence programs and national intelligence programs for purposes of its annual budget submissions to the Congress.

Furthermore, we have seen that the President's Executive order of February 17, 1976, places within the Director of Central Intelligence managerial responsibility for all national intelligence activities, including those of the Department of Defense. We have here, then, the executive branch distinguishing between "tactical" and "national" intelligence activities carried out by the Department of Defense, for purposes of managing the intelligence community. Should Congress not do the same?

I know this is a cloudy issue for a lot of Senators who are unfamiliar with how DOD conducts its intelligence activities, but I think that insofar as oversight is concerned, the dividing line would be quite clear. The new select committee, as I see it, would have concurrent jurisdiction over all DOD agencies and programs which were created primarily to collect and produce intelligence for our national intelligence estimates. The Armed Services Committee would retain sole jurisdiction over those agencies and programs of the Department of Defense designed primarily to produce intelligence for use by military commanders in the field. To be sure, there may be national intelligence activities which produce information useful to the military commander in the field, and, by the same token, tactical intelligence activities may produce information useful to the national intelligence picture. But insofar as oversight of these activities is concerned, the select committee would have concurrent jurisdiction over those activities designed to provide national intelligence, and the Armed Services Committee would have sole jurisdiction over those activities designed to produce tactical intelligence.

Unless the proposed intelligence committee does share jurisdiction over the national intelligence activities of the Department of Defense, I think its effectiveness will be seriously jeopardized. I see this for several reasons.

First, as several Senators have pointed out already, between 80 and 90 percent of the intelligence budget goes to the Department of Defense. To eliminate such a sizable amount of intelligence expenditures from the scrutiny of the new intelligence committee would be to make a mockery of it.

Second, I think it will be impossible for the new committee to study the performance of the intelligence community as a whole without looking at DOD. How, for instance, can we make a judgment about the performance of the intelligence community during a Mideast war or an Angolan crisis, unless we have military intelligence in to explain its role? And how will we have their cooperation in these studies unless we have some type of oversight authority?

Third, I fear that if, in the future, the Committee on Armed Services proves to be more favorable than the proposed select committee to intelligence activities or intelligence expenditures, we will see the intelligence community decide to have military undertake more and more of its activities in order to avoid facing the tougher committee. In sohrt, I think that the Stennis/Tower amendment will not result in even-handed oversight of the intelligence community.

Finally, I am concerned that leaving military intelligence in the exclusive hands of the Committee on Armed Services will not result in the type of oversight we need to protect the rights and privacy of our citizens. I remind my colleagues of the Church committee findings which showed that numerous activities of the Department of Defense resulted in violations of individual rights, none of which were ever investigated by the Committee on Armed Services. I point to the existence of the NSA's Watch List and Project Shamrock, and the domestic surveillance activities of the Army during the late 1960's. In this latter case, the investigation of Army surveillance was undertaken not by the Committee on Armed Services but by a Judiciary subcommittee.

The Church committee report also found that there are approximately 5,000 military investigators still in the United States. Can we be satisfied that these 5,000 investigators are staying within legitimate bounds by depending on the Committee on Armed Services?

In short, Mr. President, I do not think we will have an effective committee or effective oversight if Defense intelligence is left out of the committee's jurisdiction. I urge my colleagues to vote against the amendment offered by Senators STENNIS and TOWER.

Mr. RIBICOFF. Will the Presiding Officer please inform us concerning the remainder of the time?

The PRESIDING OFFICER. The Senator from Connecticut has 10 minutes; the Senator from Mississippi has 14 minutes.

Mr. RIBICOFF. I wonder if the Senator from Mississippi would take 4 minutes and give 10 minutes to the distinguished Senator from Idaho (Mr. CHURCH) from the last 10 minutes of the distinguished Senator from Mississippi?

Mr. STENNIS. Mr. President, I do not care just to repeat things that I have already said. I want to refer to what the Senator from Arizona said.

The major part of military intelligence is so sensitive, so far-reaching, that, should error be made, in my humble opinion, we could hardly do a worse thing than to subject all of it to the ordinary legislative process of this congressional body. That is just a matter of commonsense when we consider the subject matter with reasonable caution and not overcaution. I speak with great deference to all these men who have worked on it so much. This resolution is a unilateral thing. No one in the House is going to be bound by it in the legislative circle even if this process is adopted. Where we would have a budget, it would finally be debated here and finally agreed on and then carried to the Committee on Appropriations to let them do the best they could to live with it. The Lord only knows how they would be able to live with it. But we will say they will do their best, which I believe they will, and bring it back here on the floor, where it is subject to a point of order under the terms here and can be knocked out, debated and redebated, and finally a bill is passed.

Then what happens to the appropriations bill? It goes over to the House of Representatives, and there is no one at home, no special subcommittee over there, no special Select Committee on Intelligence over there—I am talking about legislation now—no one to deal with. If you have ever been on a real appropriations conference committee with those gentlemen from the House, you know they are experts and they are not going to be compelled or bound by anything in the way of a ceiling that they had no part in fixing.

They are not going to be bound by anything that does not pertain to them, or at least that they had a part in making and legislating on—I mean in the House. It would be, I say with great deference, a great mistake. This unilateral committee will have to be redone and abandoned, or something happen to it before it has a chance to be effective in a legislative way. Unless the House comes to something in the neighborhood of the same pattern. I just can not see where it would have a chance.

Maybe I am not fair to the House. Maybe they should have gone on and gone into this thing. But they did not; they did not. All we are asking in this amendment—we are not touching the CIA, we are not touching all the others. All we are asking is just for the military intelligence to be given this routing through the Committee on Armed Services, which has the jurisdiction over all the rest of the military program, for their analysis, for their recommendation at the same time, so that the select committee can pass it, taking all the testimony they want in the whole intelligence field, subpena power undiminished and everything else.

So I hope, Mr. President, that on second thought the majority of this body will say we must call a halt, we must take another look, at least we will carve this out for the time being until we see what can be done with the House of Representatives.

I yield back the remainder of my time.

The PRESIDING OFFICER. Ten minutes remain per side.

Mr. RIBICOFF. Mr. President, I yield 10 minutes to the distinguished Senator from Idaho.

Mr. CHURCH. Mr. President, I am happy to yield 2 minutes to the distinguished senior Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. SYMINGTON. Mr. President, as everyone knows, I have great respect for the distinguished chairman of the Armed Services Committee, but I just cannot agree with this proposed amendment. In my opinion, it will drown the CIA, the only civilian agency which in itself is a brake against the Defense Department having the exclusive right to describe the threat.

I am already worried about the executive branch reorganization of the Agency and I have so told Director Bush for whom I have the greatest respect.

I believe if this intelligence is assigned, the way it is planned under this amendment, to the Pentagon Building it would end any true civilian supervision of intelligence activities, 90 percent of which is a matter for the Foreign Relations Committee even though it is called military intelligence, unless we are at war with the country in question.

I thank my friend for yielding the time to me.

Mr. CHURCH. Mr. President, I thank the Senator very much for his remarks.

Mr. President, the Stennis amendment would strip the oversight committee of all legislative authority over strategic intelligence agencies which operate under the aegis of the Pentagon.

The resolution, the substitute resolution, does not take anything away from the Armed Services Committee. It does not in any way intrude upon the legislative authority that that committee possesses.

All this resolution does is to establish concurrent legislative authority so that the oversight committee might have adequate power to do its job.

But the Armed Services Committee, speaking through its distinguished chairman, opposed sharing any legislative authority with respect to those agencies that operate under the Defense Department.

It ought to be made clear, Mr. President, that we are speaking here only of those agencies within the Defense Department that are primarily concerned with strategic or sometimes what is called national intelligence. We are not at all concerned with, and we are not even reaching for, the Army intelligence, the Air Force intelligence, or the Naval intelligence, which is purely military and purely technical.

We are talking about those agencies within the Defense Department that deal with the collection, the dissemination, and the assessment of political and economic intelligence under the direction of the DCI, strategic intelligence, and that we must have if the oversight committee is to do its job.

Mr. President, I suggest that if this amendment is adopted it will deny the oversight committee the leverage it needs to deal effectively with those intelligence agencies which account for the great bulk of the spending. It has already been mentioned if this amendment is adopted what it means is that between 80 and 90 percent of the spending for intelligence is excluded from the legislative reach of the oversight committee, and I think that is no minor matter. In fact, instead of a club, the adoption of this amendment would leave the oversight committee with nothing more than a small stick, and would gut the committee.

Now, the substitute resolution, on the other hand, gives the oversight committee sufficient legislative reach to embrace the whole intelligence community. Thus, the oversight committee would be the congressional counterpart to the way the executive branch itself organizes and administers national intelligence.

This is a seamless web, Mr. President. If you look at the way the executive branch pulls it all together, you will see the so-called military agencies actually operate under the direction of the DCI; they operate under the direction of an overall intelligence board. This is all of a piece, and it has to be left of a piece, and if you do not give the oversight committee jurisdiction to handle as a piece then you, of course, deny the committee effective oversight authority.

Everyone who has served in the Senate knows that the power of the purse is the ultimate test. To deny the oversight committee the power of the purse where the intelligence community is concerned would be to effectively undermine its role.

Furthermore, Mr. President, if this amendment is adopted it gets us right back to the problem we are trying to solve. For years the problem has been there has been no committee in Congress that could reach out and embrace the entire intelligence community. Now we have one if this substitute resolution is adopted. But if the Stennis amendment is approved, we are right back to where we started from. The net, that seemless web, has been broken, and we are back to piecemeal jurisdiction distributed among several committees of Congress no one of which can do the job.

So, Mr. President, I do hope that in consideration of the need that has been demonstrated during the past 15 months of investigation, and the abuse we found, some of which occurred within the Defense Department—the National Security Agency was one of those that, contrary to the laws of the land, intercepted hundreds of thousands of cables and read them in a massive fishing expedition for intelligence information, all contrary to the statutes of this country.

So these agencies need to be supervised, and the oversight committee needs to have such reach so it may deal with the overall national strategic intelligence community the same way that the executive branch deals with it. Only then will you have effective senatorial oversight. Only then will you be assured that the abuses that we found in the course of this investigation can be prevented from reoccurring in the future.

So I do hope that the Senate, in its wisdom, will reject the amendment.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. CHURCH. Yes.

Mr. MONDALE. The argument was made today that not much of the scope of the abuses that were uncovered occurred in this area of defense intelligence. So I asked the staff to bring over just the copies of the reports that deal in detail with abuses occurring exclusively in the defense intelligence areas: One dealing with surveillance of private citizens, one dealing with the National Security Agency, and each of these going into detail showing over many years in a broad and deep scope the abuse of human rights and legal rights by these agencies.

If we proceed as this amendment proposes, to exempt these agencies, not only do we exempt 80 percent of the intelligence budget but we will be creating a situation where if they wanted to repeat what has happened in the past they would simply shift these activities over into the defense intelligence agencies because these agencies can do and have done, as this record shows, precisely the things that we seek to prevent.

Mr. CHURCH. I agree wholeheartedly with the Senator. He is correct in everything he said.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The time of the Senator from Connecticut has expired. The time the Senator from Mississippi has left is 10 minutes.

Mr. STENNIS. Mr. President, I yield 6 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, the issue here is not whether or not we should have oversight. I think everybody agrees that we should have oversight. The question is whether or not we are proceeding on the presumption that a committee set up specifically for that purpose can do a more perfect job than the other committees having jurisdiction over various elements of the intelligence-gathering communities.

I submit that it cannot.

Now, inherent in the proposal of this resolution is the suggestion that the Armed Services Committee has been derelict in its duties for lo these 25-plus years since the Central Intelligence Agency has been in existence.

I reject that notion. If there has been any dereliction, then the entire U.S. Senate and the House of Representatives must bear the responsibility because this was the accepted way of doing business for so many years. Then when abuses were brought to our attention, we reacted, and quite properly, in mandating a special investigation.

That brings up a point, the Senator from Idaho says that without legislative jurisdiction the oversight committee would not have sufficient authority and power to deal with the business of oversight.

I reject that notion because the select committee which he so ably chaired actually got everything it wanted and it had absolutely no legislative authority. All it could do was make recommendations.

I submit that a better way to maintain oversight would be to allow the jurisdiction in terms of oversight of our various intelligence-gathering activities to continue to lodge in the committees that now exercise that jurisdiction.

I think that the process could be perfected by the creation of, in the case of the Armed Services Committee, a permanent subcommittee with a permanent professional staff required to report to the Senate on a regular basis.

The thing I fear about this oversight committee that is supposed to resolve all of our problems regarding the intelligence community is that it is going to create more problems than it solves. Certainly, it is going to create problems in terms of the effectiveness of our clandestine activities.

Now, already, the debate on this resolution preceding that investigation, the Senate-House committee, has undermined foreign confidence in the ability of the United States to carry on intelligence-related activities in a confidential way.

We have damaged our credibility with the intelligence services of allied nations and they feel less disposed to cooperate with us now, feeling that much might be disclosed about their own operations if they do cooperate with us.

So what we are doing here is engaging in an exercise that, in my view, has the potential for seriously undermining the intelligence-gathering capability of the United States.

I cannot see that the need for the creation of such a committee, whatever the merits in the proposal are, outweigh the potential dangers to the security of the United States in terms of the proliferation of disclosure of confidential, classified and sensitive information.

The fact of the matter is that in the creation of this new committee we do not solve the problem of the proliferation, we exacerbate that problem.

Now, we have a brand new committee of 15 members, we also have a staff, for every member plus the regular permanent staff, and this is an enormous undertaking, particularly when we consider all the security precautions this committee will have to take.

This means that the potential for disclosure of sensitive information increases geometrically rather than arithmetically and the potential is very much there.

Yes, the select committee had a pretty good record of not leaking that which it chose not to disclose. I think the committee chose to disclose more than it should have.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. I yield the Senator a minute.

Mr. TOWER. But we can always expect this to be the case.

The experience in the House is that the

House committee, investigating intelligence committee, did not leak; it poured.

There is a vast potential for mischief here. This is not a committee that is being established on the basis of popular demand. The popular fear in this country, by citizens generally, is not that the CIA and the FBI are going to invade their rights, because most people being law-abiding, have no such fears. Their concern is that other agencies of the government have intruded much too much in their lives.

The preponderance of the American people believe, I feel, that we have disclosed too much, not too little, and the dangerous potential is here, that we shall disclose much more and that we will impact adversely against the security of the United States through such action.

Mr. STENNIS. Mr. President, I just have one point.

This effort about holding disclosure to a minimum, everyone understands that we are not trying to keep the information away from the Senators or from the American people. This means disclosures to our adversaries, those that are pitted against us, that are planning against us.

I am sorry that there has not been more said about better ways of getting intelligence. Everything here directed about disclosures, demand, everybody have access. Let us have some better ways of getting better intelligence, more accurate intelligence, better system, better method, better arrangement, better protection for our men and those we hire, better alternative methods, will bring better and more valuable results.

I hope that this little amendment—and it is small—for the protection of this part of the intelligence program will be passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order, with one show of hands, to order the yeas and nays on the pending Stennis-Tower amendment, the Cannon substitute, and Senate Resolution 400, as amended.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. What is the pending matter now before the Senate?

The PRESIDING OFFICER. The amendment No. 1649 to amendment No. 1643 to Senate Resolution 400.

Mr. STENNIS. Is that the amendment that has been referred to here as the Tower-Stennis-Thurmond amendment?

The PRESIDING OFFICER. The Senator is correct, the Tower-Stennis amendment.

Mr. STENNIS. Mr. President, I intend to speak in support of the amendment by Senator TOWER, myself, and others to the pending substitute proposed by Senator CANNON. Before discussing the amendment in detail, I shall address the substitute as a whole.

PRINCIPAL EFFECT OF THE PENDING SUBSTITUTE

I realize the pending substitute, which reverses the version reported by the Rules Committee, represents a good faith effort and hard-bargaining on the part of all those involved. For a number of basic reasons, however, I cannot support the substitute.

Although there are many provisions in the substitute on which I have reservations, I will limit my comments to the principal thrusts of the substitute.

The substitute would create a separate intelligence committee with legislative, oversight jurisdiction over all intelligence activities in the Federal Government. Defense intelligence activities would be broken out from the Defense budget. At the same time, any cognizant standing committee could request on a secondary and limited basis the referral of intelligence legislation except as to the CIA.

Of equal significance is the provision that no funds will be appropriated for U.S. intelligence activities after September 30, 1976 "unless such funds have been previously authorized by a bill or joint resolution passed by the Senate during the same or preceding fiscal year to carry out such activities for such fiscal year". If intelligence funds have not been specifically authorized, appropriations for intelligence activities could be subject to a point of order.

OBJECTIONS TO THE PENDING SUBSTITUTE

Mr. President, any Senate arrangement for legislation and budget authority such as the pending substitute that does not include the House of Representatives is bound to fail in the Congress. Moreover, by creating a new and second budgetary process for intelligence, the substitute would increase the potential for disclosures. Whatever reform that is needed to improve U.S. intelligence should be undertaken through a unified approach between the House of Representatives and the Senate.

The pending substitute would also result in a proliferation of involvement by Senate committees in intelligence matters and would inevitably lead to greater disclosures on the nature and scope of U.S. intelligence activities.

Finally, the pending substitute would do nothing to improve U.S. intelligence; on the contrary, its effect could well be to weaken present U.S. intelligence-gathering capabilities.

ADVANTAGES OF THE TOWER AMENDMENT

I have joined Senator TOWER in sponsoring an amendment which would protect military intelligence from these two main hazards of the pending substitute—the requirement for a separate authorization and the breakout of military intelligence from the defense budget. The Tower amendment would do three things:

Keep the legislative jurisdiction over military intelligence with the Armed Services Committee while leaving the select committee with oversight jurisdiction for all military intelligence.

Avoid a report by the select committee of its views and estimates on military intelligence to the Budget Committee.

Eliminate the requirement for a separate authorization for military intelligence funds.

The effect of this amendment would be to reduce the risk of serious intelligence disclosures and preserve the integration and strength of military intelligence within the overall U.S. defense posture.

I fully support a strengthening of congressional oversight for intelligence and have endorsed the concept of a new "watchdog" committee for intelligence. The Tower amendment would in no way reduce the power of a select committee created by the pending substitute to guard against possible abuses in the U.S. intelligence community. The select committee would have undiminished oversight authority over all intelligence activities including CIA and military intelligence. It would have access to all military intelligence information, budgetary and otherwise. It would also have full investigatory powers, including subpena power. Thus, the Tower amendment has neither the aim nor effect of restricting congressional vigilance over any U.S. intelligence activities.

Rather, the Tower amendment would preserve the regular authorization process for defense intelligence resources. In other words, the Armed Services Committee would continue to examine the merits of complex research and development, procurement, and construction associated with high technology intelligence equipment. The Armed Services Committee would continue to scrutinize military intelligence manpower through the authorization of overall military end strengths. These authorizations are studied initially by the various subcommittees of the Armed Services Committee such as the Research and Development Subcomittee, headed by Senator MCINTYRE, the Military Construction Subcommittee, headed by Senator SYMINGTON, and the Manpower and Personnel Subcommittee, headed by Senator NUNN, and so forth. Military intelligence matters would then be passed on by the full Armed Services Committee in conjunction with annual authorization for the budget of the Defense Department. It is this process that has served this Nation well over the years and has been responsible in large part for creating the most effective intelligence service in the world.

WHAT THE TOWER AMENDMENT WOULD NOT DO

There have been abuses of activities in the intelligence community, some quite serious and inexcusable. They have been spread out over the 30-year period which has recently been under review, but they cannot be justified, and I have been ashamed of the abuses which have been reported.

For the purposes of the amendment, I want to point out that most of the abuses have not been associated with defense intelligence. The uniformed military by and large has not engaged in covert operations and the so-called "dirty tricks." While certain surveillance operations, ordered by higher authority, have provoked criticism, the military agencies have engaged, for the most part, in collecting and analyzing intelligence infor-

mation. I believe they have done so skillfully and in the Nation's best interest.

In the exuberance to prevent abuses within the intelligence community, the Congress must not fail in its responsibility to give intelligence itts proper emphasis and security for the defense of this country.

HOW THE PRESENT SYSTEM WORKS

At the present time there are no laws requiring that intelligence funds in the Federal Government be authorized annually as a condition for the appropriations of intelligence activities. There is a sound reason for not requiring a separate annual authorization law. The reason is to prevent disclosure of the amounts of these funds and the annual changes which would surely be revealed if a separate law were utilized.

Let me also emphasize that the appropriations for the various defense intelligence funds are now contained in 23 different defense accounts and are authorized in part by the annual military authorization bill. In addition, there presently is no separate budget for defense intelligence activties in the sense that there are separate accounts that can be audited for the Congress by the General Accounting Office. In other words, the military intelligence budget is composed of merely estimates of intelligence spending rather than strict budget accounts. For example, an Air Force mechanic may work part-time on fighter aircraft and part-time on intelligence-gathering aircraft. He is paid out of a general defense operation and maintenance account rather than any account for defense intelligence.

Thus, this substitute would force the creation of a completely new and unwieldy budget system for intelligence in the Senate while the Houseof Representatives would continue under the existing budget system.

SEPARATE AUTHORIZATION REQUIREMENT WOULD LEAD TO GREATER INTELLIGENCE DISCLOSURES

A requirement for separate authorization of military intelligence funds will inevitably result in serious disclosures on the nature and scope of U.S. intelligence activities. To meet the separate authorization, as contemplated by the pending substitute, would result in identifying crucial aggregates and components of military intelligence.

Such disclosures would not have to come from outright leaks. Instead, separate authorizing legislation and debate in the Senate would provide the basis for drawing inferences and reaching conclusions. These inferences could be enormously valuable to our adversaries. They could also shatter the confidence of allied nations and friendly individuals who might otherwise cooperate with U.S. intelligence efforts.

SEPARATE AUTHORIZATION WOULD PRECLUDE THE CONDUCT OF CERTAIN SENSITIVE PROJECTS

A brief historical review will show that several projects crucial to the national security could not have been accomplished under a congressional requirement for separate authorization. It would have been impossible for example to develop the atomic bomb in secrecy if the funds for the Manhattan project had to have been annually authorized by the Senate as whole.

The development and use of the U-2 reconnaissance aircraft prior to the development of satellites would have been impossible had it been necessary to annually authorize funds for this purpose.

A more recent example was the so-called *Glomar Explorer* project. This was a highly secret effort to recover a sunken Soviet nuclear submarine with all its advanced technology and weaponry. It was a multimillion-dollar project that spanned several years. If the Senate had followed the separate authorization procedures for intelligence funds as set forth in the pending compromise, there would have been sufficient budgetary information made public from which clear inferences could have been drawn that the United States was engaged in an extraordinary intelligence project. From their suspicions—and all they needed were suspicions—the Soviets could have been right on the recovery spot in the Pacific Ocean, thereby foiling the entire project.

There are many other examples involving satellites, decoding systems, and other electronic technology, which would further underscore the importance of avoiding a separate authorization requirement for intelligence funds.

OTHER DRAWBACKS TO A SEPARATE AUTHORIZATION FOR DEFENSE INTELLIGENCE

An authorization requirement for defense intelligence activities would pose additional problems. There is no meaningful distinction between tactical or local intelligence and strategic or national intelligence.

A single intelligence collector such as an aircraft or satellite can provide simultaneously information that will be useful to force planners, weapons developers, and the national command headquarters.

The facilities, maintenance, logistics, and operations associated with an intelligence-gathering system cannot be separated in a budget sense from the general facilities, maintenance, logistics, and operations of the Defense Department. For example, a KC-135 intelligence aircraft uses a military airport, supplies and fuel from military stocks, military aircraft maintenance personnel and military pilots.

To segregate defense intelligence activities into a single budget would be administratively costly, requiring additional expenses, staff, and automation equipment. Furthermore, the mere compilation of such a new intelligence budget would substantially increase the risk of intelligence disclosures.

To the extent that defense intelligence activities must be separately authorized, the Defense Department would lose the flexibility to adjust quickly the level and type of defense intelligence activity. This would be especially damaging in a crisis situation.

DEFENSE INTELLIGENCE SHOULD NOT BE ISOLATED FROM THE OVERALL U.S. DEFENSE PROGRAM

In addition to using the product of the defense intelligence community, the Congress has a fundamental role in the production of defense intelligence. All of the various elements of the defense program—such as intelligence, tactical air power, and strategic submarine forces must be evaluated and balanced together in order to provide the most effective overall national defense. Valuable defense resources must go to the areas where they will make the maximum contribution to national defense. This requires that all of these elements be reviewed together in one place by a single committee.

Given its responsibility for the "common defense generally" the Armed Services Committee should be the one to weigh needs and priorities across the spectrum of defense activities so as to best channel resources into intelligence activities. Only the Armed Services Committee can review research and development, procurement, and manpower for intelligence activities in relation in airlift capabilities, command-and-control facilities, and so forth.

Defense intelligence must not become an end in itself. It must be designed to support and enhance U.S. defense efforts. Separating it from the Armed Services Committee will facilitate the development of intelligence as a separate activity operating independently of the Defense Department and U.S. national defense efforts.

Giving the select committee jurisdiction over defense intelligence would be like giving the Commerce Committee authority over military airlift or the Space Committee authority over strategic missile development. The result must inevitably be to fractionate and dilute U.S. national defense efforts.

CONCLUSION

For the reasons I have stated the Tower-Stennis amendment should be adopted. In that way we can avoid the long and cumbersome process of preparing, debating, and passing an authorization measure to cover military intelligence.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter I sent to Senators on this matter dated today.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., May 19, 1976.

DEAR COLLEAGUE: As you know, Amendment No. 1649 (the Tower-Stennis Amendment) to the pending Substitute to S. Res. 400 will be considered at 11:00 this morning. First, I would like to call your attention to what said Amendment No. 1649 does *not* do.

1. The amendment will not alter in any respect the Substitute as it relates to the Central Intelligence Agency.

2. The amendment in no way alters the existing language of the Substitute as it relates to oversight of U.S. intelligence activities including defense intelligence. The select committee will have access to all intelligence information as well as full investigatory and subpoena powers over all intelligence activities.

The amendment would provide:

1. It would remove from the proposed new select committee legislative jurisdiction over Department of Defense intelligence. The

rationale is two-fold. First, it would minimize the possible disclosure through the long and debated process of authorization of sensitive intelligence figures. Rather than being separately "authorized by a bill or joint resolution passed by the Senate", as required by the Substitute, Defense intelligence figures would continue to be included in various parts of the Military Authorization and Appropriation Acts. I cannot overstress the damage to defense intelligence that could flow from budget clues which would enable foreign powers to determine information and trends on our highly sophisticated electronic and satellite activities.

2. Intelligence activities, as carried on within the Department of Defense, are as much a part of national defense as the Strategic Air Command, Polaris submarine fleet, or any other vital defense element. The Senate should not fractionalize national defense by having a separate authorization for intelligence manpower, intelligence research and development, and intelligence procurement involving such matters as cryptology, satellites and other electronics. Intelligence is an inseparable element of national defense.

The new select committee, by retaining complete oversight, would be empowered to investigate and prevent any abuses. At the same time the necessary secrecy and strength of defense intelligence would be preserved.

One final comment. With the Senate acting alone, the entire proposal will ultimately fail. With the House continuing under the present system, with the basic differences in Congressional management of the intelligence program, legislative reconciliation becomes unmanagable and impossible to attain. The fate of national intelligence should not be left to chance.

I hope you will see fit to vote for the proposed Amendment No. 1649.

Most sincerely,

JOHN C. STENNIS.

ADDITIONAL STATEMENTS ON TOWER-STENNIS AMENDMENT

Mr. TAFT. Mr. President, I rise in support of the amendment offered by Senator TOWER and others which would avoid a very serious problem created by the substitute—the requirement for a separate authorization and the breakout of military intelligence from the defense budget. This is one of the points I addressed in my testimony before the Rules Committee which unfortunately has not been resolved in the final compromise version of the resolution.

Furthermore, as I understand it, the Tower amendment would add constructively to the resolution by establishing the following things:

First, it would maintain the legislative jurisdiction over military intelligence within the Armed Services Committee, while preserving the select committee's oversight jurisdiction over military intelligence.

Second, it would obviate the requirement that the select committee report its estimates on military intelligence to the Senate Budget Committee.

Third, it would avoid the requirement that a separate authorization for military intelligence funding be employed.

The intendment of the amendment is to alleviate the risk of disclosure of military intelligence and to provide for the continued coordination of military intelligence with our entire U.S. defense position.

Mr. President, in my opinion it is virtually impossible to separate the budgeting process for the intelligence function from the process of authorizing and appropriating funds for our national defense. It is clear to me from my work on the Armed Services Committee that intelligence is an integral part of the national defense. It can be analogized to a complex network that could not be unraveled without destroying its entire structure. For example, Navy ships and military bases carry intelligence gathering equipment, for both tactical and national defense purposes. My question is, how can these funds for these systems be separately authorized and appropriated? In practice, it is impossible to draw a distinction between national and tactical intelligence, much less say that one system gathers only national, and another only tactical intelligence. These differences exist only on paper, in Senate Resolution 400, and not in point of fact. Moreover, I believe Senator STENNIS has made a good point here when he said that Congress has a vital role in the production of defense intelligence. He stressed that all of the elements of our defense program, such as sealift capability, defense intelligence, air power, must be evaluated together in order to provide the most effective overall national defense capability. He urged that valuable defense resources must go to those areas where they will have a maximum contribution to national defense. I could not agree more. It is my conclusion that this requires all of the component elements to be reviewed together in one place by a single committee having the expertise to make such evaluations. I submit that this is properly an Armed Services Committee function.

Mr. PERCY. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Delaware (Mr. ROTH) in connection with this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR ROTH

I regret that due to a long-standing speaking engagement in Delaware, I am unable to be present for the final votes on S. Res. 400, including the vote on the Tower amendment and on the Cannon substitute.

If present, I would vote against the Tower amendment and for the Cannon substitute.

The Tower amendment would exclude from the jurisdiction of the new Intelligence Committee all Defense Department intelligence programs, including the National Security Agency (NSA) and the Defense Intelligence Agency (DIA). Since these agencies are involved in preparing national intelligence information that is the basis for general foreign policy and defense policy decisions, I believe that it is essential that the new Intelligence Committee have jurisdiction over these programs along with the Armed Services Committee. This is necessary for the new committee to have a coherent and complete understanding of our national intelligence effort, to review the various programs to eliminate any unnecessary duplication and maximize efficiency as required by one of my amendments to S. Res. 400, and to perform basic oversight responsibilities. Under the Cannon substitute, the Armed Services Committee will have sequential jurisdiction, and, of course, that committee will also properly retain exclusive jurisdiction over tactical military intelligence, the kind of intelligence commanders in the field need in a battlefield situation.

The Cannon substitute to S. Res. 400 is the compromise worked out by members of the Government Operations and Rules Committees to establish a new permanent Intelligence Committee. I joined in introducing this substitute because I believe a new committee with legislative jurisdiction is needed to help restore public confidence in our intelligence services while providing effective oversight. Finally, the substitute incorporates the essential provisions of the amendments I introduced to protect national intelligence secrets and examine a number of problems, including the morale of intelligence personnel, the analytical quality of our foreign intelligence information, and the desirability of charters for each intelligence agency, which I believe have not yet been adequately addressed.

Mr. STENNIS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), and the Senator from Wyoming (Mr. MCGEE), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from North Carolina (Mr. HELMS), and the Senator from Delaware (Mr. ROTH), are necessarily absent.

On this vote, the Senator from North Carolina (Mr. HELMS) is paired with the Senator from Tennessee (Mr. BAKER). If present and voting, the Senator from North Carolina would vote "yea" and the Senator from Tennessee would vote "nay."

The result was announced—yeas 31, nays 63, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—31

Allen	Fong	Scott, Hugh
Bartlett	Garn	Scott, William L.
Bellmon	Goldwater	Sparkman
Brock	Hansen	Stennis
Buckley	Hruska	Stevens
Byrd, Harry F., Jr.	Johnston	Taft
Cannon	Laxalt	Talmadge
Curtis	Long	Thurmond
Eastland	McClellan	Tower
Fannin	McClure	Young
	Nunn	

NAYS—63

Abourezk	Gravel	Montoya
Bayh	Griffin	Morgan
Beall	Hart, Gary	Moss
Bentsen	Haskell	Muskie
Biden	Hatfield	Nelson
Brooke	Hathaway	Packwood
Bumpers	Hollings	Pastore
Burdick	Huddleston	Pearson
Byrd, Robert C.	Humphrey	Pell
Case	Inouye	Percy
Chiles	Jackson	Proxmire
Church	Javits	Randolph
Clark	Kennedy	Ribicoff
Cranston	Leahy	Schweiker
Culver	Magnuson	Stafford
Dole	Mansfield	Stevenson
Domenici	Mathias	Stone
Durkin	McGovern	Symington
Eagleton	McIntyre	Tunney
Ford	Metcalf	Weicker
Glenn	Mondale	Williams

NOT VOTING—6

Baker	Hartke	McGee
Hart, Philip A.	Helms	Roth

So the Tower-Stennis amendment (No. 1649) was rejected.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL STATEMENTS ON THE CANNON SUBSTITUTE AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, as a member of the Committee on Rules, I have worked closely with other Senators in writing the substitute amendment offered by Mr. CANNON to Senate Resolution 400. I am keenly aware of the compelling need for effective oversight of the intelligence community, and I also recognize that the best interests of the United States demand that the intelligence community must be able to function effectively and that there are matters which, in the national interest, the Government must be able to keep from public disclosure.

I believe that the compromise substitute offered by Senator CANNON and myself and other Senators to Senate Resolution 400 will provide the best legislative response to these legitimate competing interests.

The membership of the new committee would be drawn from the entire Senate, while at the same time drawing from the substantive committees which have expertise in intelligence-gathering matters—recognizing that members from these committees not only must continue to work closely with intelligence matters to enable their committees to fulfill their responsibilities properly; but, also that these members bring a special understanding and knowledge of intelligence activity matters to the new select committee.

The new committee, in exercising exclusive jurisdiction over the CIA, will be able to deal with the complexities of intelligence activities, without the burden of responsibility over other large areas of legislation which the substantive committees now shoulder. Centralization of responsibility for the CIA in one committee, while providing for closer oversight, also decreases the risks of inadvertent publication of highly sensitive material on the part of the Senate. Conversely, responsibility to only one Senate committee demands and will allow full cooperation and candor with that committee on the part of the CIA.

At the same time, the compromise proposal offered as a substitute for Senate Resolution 400, recognizes that in other areas of the intelligence community, the working relationship of the intelligence arm of the respective departments and agencies are so closely intertwined with the other activities of the departments that isolated oversight of these intelligence activities by one Senate committee would be detrimental to the proper functioning of both the affected department and the Senate in carrying out its constitutional oversight responsibilities.

The compromise also provides adequate protection against unwarranted disclosure of sensitive material, I believe, thus correcting a serious deficiency in the original bill.

Mr. President, it is a most difficult task to shift jurisdiction in the Senate to allow for the changing priorities which the national interest demands. It is not that our present committee structure did not want, or try, to prevent abuses in the intelligence community—the fact is that the intelligence activities of our Government have grown so large and so complex that the substantive committees, with all of their other heavy responsibilities, could not hope to give the necessary time and develop the specialized expertise needed to constantly monitor and effectively control the intelligence community.

Recognizing the reality that an effective intelligence community is an absolute necessity for our country's security, but also realizing that past abuses by some segments of the intelligence community require the Senate to act to restructure itself in such a way as to be able to exert the necessary legislative oversight to prevent future abuses, I urge the Senate to adopt the Cannon substitute proposal and pass Senate Resolution 400 as so amended.

Mr. TAFT. Mr. President, after a thorough study of the issues involved, and after actively participating in the debate on Senate Resolution 400 as well as offering several amendments thereto, I am constrained to vote against the so-called Cannon compromise. This is not to say that I do not favor a central committee of the Senate which would have legislative and even perhaps appropriations jurisdiction over our intelligence activities. I believe we all agree on the objectives for creating such a body—more adequate and continuing control on the part of the Congress over our various intelligence functions. But I differ with the Cannon compromise with respect to the means employed to achieve these objectives.

I believe that the compromise in several ways is premature and hastily drawn. The compromise calls for the creation of a select committee of the Senate which in effect has the powers and authority of a standing committee of the Senate. The substitute establishes a wholly new intelligence committee with legislative, budgetary, and oversight jurisdiction wrapped up in one committee. It is my view that this is extremely serious undertaking and should not be approved until all of the implications of creating a committee like this have been thoroughly developed over an extended period of time.

I believe it is also proper to have an informed input from the select committee to study the Senate committee system prior to our adoption of the compromise resolution. It would certainly seem logical that any proposal to establish in effect a standing committee of the Senate should receive study by the committee which the Senate has authorized for that purpose in conjunction with its overall study of committee jurisdictions. I believe we are depriving our Select Study Committee of jurisdiction over a matter which the Senate has previously agreed is eminently within the jurisdiction of this body.

I have additional problems with the compromise resolution as it presently stands. I successfully offered two amendments during the debate on this measure which I feel will strengthen the resolution. However, one of my amendments dealing with the Senators' committee assignments was defeated yesterday and I believe that this was a crushing blow to the establishment of a new Select Committee on Intelligence. Without going into detail into this issue, which is a matter of record, I believe that we have not given this committee a realistic chance to succeed because there is no accommodation made for a Senators' work on this select committee with his normal activities in the conduct of other senatorial committee assignments.

I am also concerned that the pending substitute will cause a proliferation of committee involvement in intelligence matters and will unavoidably lead to greater disclosures of our intelligence activities. While I recognize that the bill does provide for controls over unauthorized disclosure of classified information and while there is a provision for the Senate to investigate unauthorized disclosures, I am still not satisfied that we have tightened this area sufficiently so as to fully protect our intelligence secrets. I will continue to monitor this area assuming the select committee comes into being and if there are violations and abuses, I am prepared to offer legislation to impose criminal sanctions on the violators in addition to the disciplinary rules contained in the Standing Rules of the Senate.

For all of these reasons, I would prefer the approach taken by the Rules Committee which would establish a Senate Select Committee on Intelligence with oversight jurisdiction over the intelligence community, but would leave within the various standing committees the legislative jurisdiction in respect to intelligence activities.

I believe that a separate oversight committee, fully and currently informed and having a subpena power, can provide effective oversight for the intelligence community without a grant of legislative jurisdiction. This statement is borne out by virtue of the experience of the Select Senate and House Intelligence Committees which have very successfully exposed the abuses while not having legislative authority.

Mr. President, it seems to me that in order for the Senate to succeed in this area, it must work with the House of Representatives in fashioning a joint committee of Congress acceptable to both bodies. Legislative activity as broad as what we are providing for in this select committee has got to be done in conjunction with the House of Representatives if we are to gain control over our intelligence area. The beauty of adopting the Rules Committee approach is that it would furnish us with sufficient time to further study this prospect while at the same time not diminish our inquiry into the status of our intelligence functions. I note that Congressman CEDERBERG has for himself and the minority leader of the House, introduced

joint resolution to provide for the establishment of a Joint Committee on Intelligence which I believe shows a willingness on the part of the House to engage in a constructive dialog on creating a committee of this kind.

I would like to have the opportunity and time to develop this aspect further and it appears to me that we are going to foreclose this possibility by approving this Senate Select Intelligence Committee today.

Mr. KENNEDY. Mr. President, I strongly support the compromise amendment to Senate Resolution 400, offered by Senator CANNON and others, which I am pleased to cosponsor. This proposed substitute, as amended, would establish a permanent Select Committee on Intelligence Activities composed of 15 Members of the Senate, appointed on a rotating basis.

The committee will have full oversight, legislative, and budgetary authority over the Government's national intelligence activities. Its jurisdiction will not only cover the Central Intelligence Agency, but also the Defense Intelligence Agency, the National Security Agency, and the intelligence activities of other agencies—including the Federal Bureau of Investigation.

Although we are considering this resolution in the wake of the reports recently issued by the Senate Select Committee on Intelligence Activities and the President's Commission on CIA activities, the need for such a permanent intelligence oversight committee was recognized by the Hoover Commission over 20 years ago. In 1956 the Senate Rules Committee recommended the creation of a new congressional unit "to gather information and make independent checks and appraisals of CIA activities." Numerous other studies and reports since that time have reemphasized the need for closer more continuous, and more sophisticated oversight of intelligence activities of the Federal Government.

Under the able leadership of Senator CHURCH, the Select Committee on Intelligence Activities explored for over a year the various intelligence programs, agencies, expenditures, and activities of the Federal Government. Whatever doubts may have existed before, the over 1,000 pages of final report recently issued by that committee make it imperative that we proceed with dispatch to set up a permanent committee with broad jurisdiction and adequate powers to keep a watch over and maintain a check on the activities of all the agencies of the Federal Government dealing with intelligence.

It has taken the Intelligence Committee seven volumes of hearings and two volumes of reports to uncover, document, and analyze the intelligence activities of various Federal agencies. It would be impossible to describe in any brief floor remarks the scope of the abuses of power contained in that record.

It is replete with descriptions of bugging, wiretapping, mail opening, surreptitious entry, infiltration, assassination plots, drug experimentation, clandestine military operations, character assassinations, and more, all carried out under the banner of intelligence gathering and the protection of our national security. And all were carried out secretly, without public or congressional knowledge, without adequate controls or checks from within or without.

The establishment of a permanent Senate committee to keep tabs on the Governments' intelligence community is only the first step. Congress must proceed to develop comprehensive charters for the intelligence agencies, and guidelines for their activities. We must reorganize portions of those agencies, establish firm chains of command within and constant reporting and approval mechanisms without.

We must establish a statutory classification system and enact laws governing national security electronic surveillance. The list goes on and on. But at its head is the need to put in place a committee to oversee and study the intelligence activities and programs of our Government, to develop and review legislation concerning them, and to insure that they are in conformity with the Constitution and laws of our land.

Senate Resolution 400 has been before various committees of the Senate for over 2 months. It has been studied and debated, revised and revised again. But until the introduction of the Cannon substitute last week. What had emerged from these studies and debates and revisions was a division of this body into two basic groups—those who would put in place a permanent strong committee, equipped with the authority and jurisdiction to do the immense and difficult job of overseeing Government intelligence operations, and those who would construct a committee of paper maché, having the appearance of solidity but remaining thin on the outside and hollow on the inside. The Stennis amendment, which would strip the new committee of its jurisdiction over Defense Department intelligence functions—including DIA and NSA—reflects this second choice.

If we choose the latter course, then we are saying that the Senate tradition of ignoring the use and abuse of immense power and perhaps billions of dollars in the intelligence field is to be continued. We are choosing to put our heads back in the sand, knowing nonetheless that what we do not know and will not know could hurt us, thousands of other Americans, and our democratic society.

The evidence we have makes the former course the only responsible one. The proposed substitute to Senate Resolution 400, as it stands now, would arm the Senate with the tools to fulfill our constitutional duty to provide the controls and guidance over executive branch intelligence activities. In taking this road we are not acting as if intelligence is unimportant to our Nation. We are not saying that we should drop our guard against genuine foreign challenges to our national security. But we are asserting that Congress intends to play a direct role, a firm role, in guiding the conduct of intelligence activities and in protecting the rights and liberties of all American citizens.

I would like to turn my attention for a moment to the matter of the jurisdiction of the new committee proposed to be established by the substitute to Senate Resolution 400, which I am joining in proposing. As a member of the Senate Committee on the Judiciary, I had the occasion to hear testimony and join debate over whether any new permanent Senate Intelligence Oversight Committee should have jurisdiction to oversee the intelligence activities of the Federal Bureau of Investigation. I came away convinced that while the Judiciary Committee must maintain its historic jurisdiction over every aspect of the Bureau's operations, the new committee should nonetheless be vested with authority over the FBI's intelligence activities.

There are two reasons for this conclusion: First, there have been a myriad of abuses by the FBI, under the guise of domestic intelligence and counterintelligence, which have basically gone unchecked and undisclosed, despite the Judiciary Committee's interest in and involvement with the Bureau. And second, setting aside the issue of abuses, there is a legitimate role which the FBI has—as a full member of the intelligence community—which takes it into realms that can often best be understood and guided by a committee with broader jurisdiction over foreign intelligence activities of other agencies of Government as well.

The abuses of authority by the Federal Bureau of Investigation in the intelligence area are by now all too well known. They are not limited to narrow timeframes or circumscribed geographic areas. Nor, more importantly, do they reflect the isolated acts of zealous agents out on a frolic of their own. Instead, those abuses were embodied in on-going bureaucratic programs, ordered and approved at the highest levels, spanning the country and continuing for years.

The Bureau's counterintelligence programs were, in its own words, designed to "expose, disrupt and otherwise neutralize" political groups in the United States. The Cointelpro program, targeted against five groups, extended over 15 years and was found by the Department of Justice itself to have involved practices "abhorrent to a free society." Attorney General Levi stated that many of the Bureau's activities in this field were not only "foolish," but were also "illegal."

The FBI's bag of intelligence tricks included wiretapping, burglaries, surveillance, and abusive disruptive practices. And it also included efforts to discredit and harass American citizens whose only offense was to provide leadership in the antiwar and civil rights movements.

But I do not want to dwell solely on the misuse and abuse of FBI power so thoroughly documented by the Church committee. Because, Mr. President, it is clear that even without straying from its lawful and legitimate course, the FBI retains responsibilities that are not directed primarily toward law enforcement, but which are aimed at collecting intelligence information for our Government and at blocking attempts by foreign governments from collecting information from us.

On February 18 of this year President Ford issued an Executive order governing U.S. foreign intelligence activities. In that order, the FBI was listed alongside the Central Intelligence Agency, the National Security Agency, and the Department of Defense as a full-fledged member of the "foreign intelligence community."

In fact, while the CIA was charged with carrying out "foreign counterintelligence activities," the FBI was charged with conducting "foreign counterintelligence activities within the United States." I stress, Mr. President, that the only difference in the characterization of the responsibilities between the CIA and the FBI is the use of the geographic limitation which sets the CIA's duties outside our country, the FBI's inside. Incidentally, the Executive order spells out the Bureau's responsibilities in some detail, but not once in that order is law enforcement or prosecution for violating Federal laws mentioned.

In short, the FBI, while fundamentally a law-enforcement agency, is also an intelligence-gathering agency. In its report on Senate Resolution 400, the Rules Committee observed that "the intelligence activity of the FBI is a means by which it detects and investigates violations of Federal criminal laws." In fact, as the President's Executive order, the Bureau's own guidelines and organization chart, and testimony before the Judiciary Committee make clear, this is simply not the case. The Intelligence Division of the Bureau performs activities in the United States similar in nature to what the CIA does abroad. No direct law-enforcement nexus is necessary in the conduct of the Bureau's intelligence and counterintelligence programs.

Finally, it is difficult, and often impossible, to draw clear lines between the law enforcement and the intelligence functions of the FBI. Nor is there any clear line dividing domestic-oriented from foreign-oriented activities.

Mr. President, I would also like to point out for the record that while the Rules Committee report on Senate Resolution 400 contains what are called "recommendations of the Committee on the Judiciary," 7 of the 15 members of that committee dissented from those recommendations. Those 7 members joined in a letter to the Rules Committee, which was not reflected in its report, urging that the new Intelligence Committee retain concurrent legislative jurisdiction over FBI intelligence activities.

It seems plain to me, Mr. President, that if there are two committees in the Senate—one predominately concerned with law enforcement and the protection of constitutional rights, as is the Judiciary Committee, and the other predominately concerned with foreign intelligence, as will be the new Intelligence Committee—then both must have continuing, full, and active oversight and legislative jurisdiction over the intelligence activities of the Federal Bureau of Investigation.

As strong as I believe the case is for providing the Select Intelligence Committee with jurisdiction over FBI intelligence activities, that case is even stronger regarding the Defense Intelligence Agency, the National Security Agency, and other units of the Department of Defense. The Defense Department must be kept in check as to its activities both at home and abroad.

The Subcommittee on Constitutional Rights of the Judiciary Committee has documented the extensive nature of military surveillance of American citizens in the United States. Likewise the Church committee found that the Army Chief of Staff in 1967 approved a recommendation for "continuous counterintelligence investigations" to obtain information on "subversive personalities, groups or organizations." As later revised, the Army extended its intelligence gathering program beyond "subversion" and "dissident groups" to prominent persons who were friendly with or sympathetic to leaders of domestic civil disturbances. And even in the face of a Defense Department directive prohibiting military spying on civilians in the United States—as narrow as that directive is—that is evidence that the military has continued domestic surveillance.

One notable example of the Army's domestic activities was the pervasive Army presence in 1973 at Wounded Knee, S. Dak., where the Directorate of Military Support in the Pentagon coordinated the Army's participation in what was clearly a domestic disturbance. And my own subcommittees turned up widespread military drug testing programs which were geared to intelligence gathering and frankly showed little respect for the human subjects of the tests.

DOD's domestic intelligence-related activities, however, are but the tiniest tip of the iceberg. In fact, it has been estimated that of the total national intelligence budget, the Defense Department controls or is allocated upward of 80 percent. Much of what goes on with that money is still not in the public domain. And if the Stennis amendment is adopted by this body, much of what goes on with it will never be brought under any coordinated, effective, broad-based legislative oversight.

To place the CIA under the jurisdiction of the new intelligence committee, and at the same time to leave the Defense Department outside its purview, is worse than telling a boxer that he cannot hit below his opponent's waist with his left fist only. Because as much as we scrutinize the CIA, we cannot adequately control, chart, guide, or check abuses in Federal intelligence programs if the Select Intelligence Committee is not given authority over Defense Department intelligence activities. We may well wake up one day to find that many CIA activities have in fact been transferred over to Defense to escape congressional control.

We cannot delude ourselves. We know full well that the standing committees have not always performed their oversight tasks with vigilance or vigor. That is why we set up the Church committee to begin with. And that is why we are going to set up a permanent Select Committee on Intelligence Activities.

The Judiciary Committee had not uncovered, much less put a stop to, the wide range of FBI activities which violated the law but which have only recently come to light. Likewise, the Armed Services Committee has hardly done better in keeping an eye on the CIA and other intelligence agencies. We must establish a committee whose full-time job it is to look at Federal intelligence activities. And we must give that committee full authority over each and every Federal agency engaged in such activities.

The new committee must be empowered to obtain all relevant information it needs to do its job.

Further, by vesting in this new committee the shared jurisdiction over authorizing appropriations for all those intelligence activities, we will be giving that committee the clout and the control it will need.

I believe that one of the first tasks of this new committee should be to develop comprehensive charters for the carrying out of intelligence activities by the intelligence agencies. This will surely take an extraordinary investment of time and energy—one which is hardly likely to be undertaken by any of the present standing committees of the Senate. But if we are going to learn any lessons from the disclosures of the past, we cannot afford to lose any time in first making the hard decisions necessary and then installing firm limitations and guidelines to govern intelligence activities in the future.

As I stated earlier in these remarks, Mr. President, the Senate is confronted with a critical choice in this debate. We can elevate the traditions of the Senate not only the tradition of zealously guarding committee jurisdictions against even slight encroachment, but also the tradition of ignoring what our intelligence agencies are doing—above the real needs of this Nation for legislative leadership in the intelligence field. Or we can dispense with petty institutional jealousies and put in place a committee which embodies our best efforts to fashion the broadest jurisdiction, the most sophisticated safeguards, and the strongest authority.

We cannot fool ourselves, and we should not try to fool the public: Any committee equipped with less jurisdiction or authority than provided in this substitute will not be capable of obtaining information from and exercising checks over those agencies which exercise such extreme power themselves and which have for so long eluded control by either the Congress or the Executive. And any committee without full jurisdiction across the range of all Federal agencies would stand as a monument to this body's willingness to cave in and cop out in the face of real challenge.

That is why I oppose the Stennis amendment and urge my colleagues to adopt the Cannon substitute as it now stands.

The PRESIDING OFFICER (Mr. SCHWEIKER). Under the previous order, the Senate will now proceed to vote on the amendment in the nature of a substitute, as amended, of the Senator from Nevada. (Mr. CANNON). On th

question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), and the Senator from Wyoming (Mr. McGEE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from North Carolina (Mr. HELMS), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BAKER), and the Senator from North Carolina (Mr. HELMS) would each vote "yea."

The result was announced—yeas 87, nays 7, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—87

Abourezk	Glenn	Moss
Bartlett	Goldwater	Muskie
Bayh	Gravel	Nelson
Beall	Griffin	Nunn
Bellmon	Hansen	Packwood
Bentsen	Hart, Gary	Pastore
Biden	Haskell	Pearson
Brock	Hatfield	Pell
Brooke	Hathaway	Percy
Buckley	Hollings	Proxmire
Bumpers	Huddleston	Randolph
Burdick	Humphrey	Ribicoff
Byrd, Harry F., Jr.	Inouye	Schweiker
Byrd, Robert C.	Jackson	Scott, Hugh
Cannon	Javits	Scott, William L.
Case	Johnston	Sparkman
Chiles	Kennedy	Stafford
Church	Laxalt	Stennis
[illegible]	Leahy	Stevens
[illegible]ton	Long	Stevenson
[illegible]er	Magnuson	Stone
Dole	Mansfield	Symington
Domenici	Mathias	Talmadge
Durkin	McClellan	Tower
Eagleton	McGovern	Tunney
Eastland	McIntyre	Weicker
Fong	Metcalf	Williams
Ford	Mondale	Young
Garn	Montoya	
	Morgan	

NAYS—7

Allen	Hruska	Thurmond
Curtis	McClure	
Fannin	Taft	

NOT VOTING—6

Baker	Hartke	McGee
Hart, Philip A.	Helms	Roth

So Mr. CANNON's amendment (No. 1643), as amended, was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL STATEMENTS ON SENATE RESOLUTION 400, AS AMENDED

Mr. HOLLINGS. Mr. President, in the zeal to organize, we sometimes disorganize, and there is clear and present danger that we are heading down that road with these particular intelligence oversight proposals. The fact of the matter is that the measure before us creates confusion where there should be authority, and dilutes the kind of responsibility which could provide for adequate accountability and oversight. Before we know it, we could be right back to the same slipshod oversight, the same diminution of public credibility, and right back 3 or 4 or 5 years from now to another round of spectacular hearings and revelations, simply because we failed to do a better job. The public would not stand for that. The Senate should not have to endure it. And our intelligence agencies will not be able to survive it.

My objection is that here we are creating this large supercommittee, yet it lacks jurisdiction over the majority of intelligence activities and instead focuses on the Central Intelligence Agency. Its jurisdiction over the FBI would not be exclusive, and the same applies to the intelligence operations of the military branches. In these instances, we bring in other standing committees. The limitations here should be obvious: First, there is no focal point of responsibility; and second, by including these other committees, we will not have 15 Senators involved, but closer to 40. And if the House follows our example, it can add another 175 or 200, and we will have one big, happy family to oversee the vital operations of our intelligence community. The inadequate oversight guaranteed to result from that kind of arrangement should be obvious.

Mr. President, I had the opportunity of testifying before the Government Operations Committee during its deliberations on this matter. I made some suggestions at that time. They were not acted upon, and I do not wish to belabor them or to repeat my testimony today. But, briefly put, I proposed the establishment of a watchdog commission small enough to get the job done, tight enough to provide the necessary responsibility and authority, wide enough in diversity of membership to insure public credibility, and efficient enough to do its job without impairing the work of the agencies it is supposed to be helping.

The genesis of my proposal is in the Task Force on Intelligence Activities of the Commission on Organization of the Executive Branch of the Government—the Hoover Commission. It was my privilege to serve on this task force 21 years ago. At that time we looked into every facet of our intelligence operations, and I believe the basic thrust of our report has withstood the test of time.

We recommended a small, permanent, bipartisan commission—not a committee—composed of Members of both Houses of Congress, to make periodic and ongoing surveys of every segment of our intelligence operations. Its findings and recommendations, with adequate security safeguards, would go to both the Congress and the President.

I suggested before the Government Operations Committee that such a commission would have just five leaders from each House, and five prominent citizens not involved in Federal Government, appointed by the President and approved by the Congress. That sum total of 15 must be compared with the 40 some Senators who will be involved under the present proposals, plus whatever number the House establishes, plus the executive branch personnel. The specific five Members from the Senate I would like to see on a commission are the majority and minority leaders, and the chairmen of the Senate Committees on Appropriations, Armed Services, and Foreign Relations. I include the leadership and the chairmen for the main and simple reason that they are the ones who have to know and who, in any event, will know. Let us also face the fact that this is an unglamorous job. I do not look for much enthusiasm to get on such a committee, when other assignments offer so much more visibility and excitement.

This is not to say that we junior Members should be cut off from information. But there is a lot of water over the dam, and we can now get the briefings we need, whether it be Angola, Diego Garcia, Israel, or any other such matter, and we are not ruled out by lack of seniority. That is not the problem here. The problem is the effectiveness and the necessary secrecy of an intelligence agency being maintained while at the same time those responsible for oversight get the facts and the knowledge they need. The leadership and these particular chairmen are the logical choices here.

I would envision such a commission meeting three or four times a year for comprehensive reviews of the entire intelligence community, in order to determine if the various intelligence activities were in the national interest, whether there was duplication of effort and/or cost, whether appropriations were being adequately accounted for, and in general to insure that the various agencies and offices were focusing rather than proliferating their efforts. The commission would have all the authority it needed to acquire the information and to carry out its mandate.

Mr. President, within the context of maintaining some secrecy about our intelligence operations, we must establish confidence—confidence both within the intelligence agencies, and confidence in the public mind. I think the establishment of this kind of ommission would do just that. The kind of proposal being considered today is without the essential focus, responsibility, and authority to get the job done as well as it should be done.

The commission proposal that I presented to the Government Operations Committee received no committee support. Consequently, I am not going to pursue them further today. I will vote for the proposal before us, because obviously we need to put something in place, and this seems to be the solution the Senate is going to agree to. But I want the record to show the objections I have and the proposals I favored.

Mr. BEALL. Mr. President, I support the passage of Senate Resolution 400 which will establish a committee of the Senate on intelligence activities. Creation of this committee is an important step in our efforts to establish a positive congressional oversight role in the operation of our Nation's intelligence agencies. Even though the final reports of the Select Committee To Study Governmental Operations With Respect to Intelligence Activities found the extent and magnitude of CIA abuses to be somewhat less serious than earlier reported, the existence of such abuses simply can not be allowed to continue.

I am the last person who would defend the abuses and illegal conduct of our

overseas intelligence community. Philosophically I deeply believe in the concept of limited government. Our Nation must always be governed within the constraints of our Constitution and our laws. We are a nation of laws, not of men and our freedoms are only safe as long as we adhere to that principle.

Thus I do not condone the misconduct of the Central Intelligence Agency, nor do I believe that it should be allowed to operate beyond the limits of its legal mandate. Part of the problem stems from the dangerous international environment of the cold war. Part of the problem stems from the failure of the Central Intelligence Agency Oversight Committees in both the House and the Senate to play their watchdog roles in a diligent and consistent manner.

Mr. President, I would note that, even before the Select Intelligence Committee was established to investigate the ramifications of the current controversy, I was actively supporting legislation to correct this situation. I joined with our distinguished colleagues from Connecticut (Mr. WEICKER) and Tennessee (Mr. BAKER) in sponsoring S. 317 which would have established a single joint committee with oversight responsibilities for both domestic and foreign intelligence. During the past 16 months since S. 317 was introduced, I have come to the conclusion that a separate Senate committee is a better approach to meeting this need. Perhaps at some future date a subsequent Congress may consider the possibility of broadening the Senate committee into a joint committee.

Mr. President, as we prepare to vote on Senate Resolution 400, the Senate is taking upon itself greater authority over the conduct of intelligence operations. With this enhanced power comes grave responsibilities. In the conduct of foreign intelligence operations, there is a very great need for confidentiality. Disclosing confidential information about foreign intelligence operations and agents can place in jeopardy the security of our Nation and its 215 million people. The overriding interests of all Americans demands protection under these circumstances. This new committee, which we are about to form, and its staff must be able to conduct its business in a manner consistent with our overall national security needs.

We live in a far too dangerous era for us to dismantle or cripple our foreign intelligence apparatus. We must instead correct its faults as quickly as possible so that it can once again devote all of its attention to gathering the type of information our decisionmakers need to shape our foreign and military policies.

Mr. President, on April 5, 1976, I introduced S. 3242, a bill to provide for the personal safety of our foreign intelligence personnel. This legislation would make it unlawful to disclose classified information that would identify or tend to identify any individual or entity who is or has been associated with U.S. foreign intelligence operations. Violations would carry a maximum penalty of $15,000 or 15 years imprisonment or both. S. 3242 is currently pending before the Senate Judiciary Committee and it has now been cosponsored by the distinguished senior Senator from North Dakota (Mr. YOUNG) and the distinguished senior Senator from Arizona (Mr. FANNIN). I would hope that the Judiciary Committee will bring this vital legislation before the full Senate before the conclusion of the 94th Congress.

Mr. PEARSON. Mr. President, I wish to commend the managers of Senate Resolution 400 and all of my colleagues who have worked so intensively to create the new Intelligence Oversight Committee. Their labor has produced a compromise that I believe represents a responsible combination of increased oversight and legislative restraint that reflects well on this body. I hope that it also represents a reversal of a long history of congressional inactivity in the intelligence field.

It has become, over the past 2 years, painfully clear that some new oversight panel was essential. The Rockefeller Commission and investigations conducted by select committees in both Houses of Congress have disclosed domestic abuses and foreign debacles perpetrated by our intelligence community. During the nearly 30 years in which these abuses were all too frequent, Congress neglected its constitutional responsibility to keep a vigilant watch over its administrative creations. Congress abysmally failed to assure that legislative appropriations were properly expended.

To the extent that this neglect and failure was institutionalized by fragmented committee responsibility this resolution begins to eliminate the inadequacy. Effective oversight of the CIA, NSA, DIA, the national intelligence components of the Department of Defense, and the intelligence activities of the FBI will hopefully become a reality under the new panel.

Congressional overseers have, in the past, tended to identify their interests with those of the agencies under their jurisdictions. This can be predicted as a natural result of years of contact. While familiarity is necessary to understanding, it sometimes blinds those who oversee. Rotation of the members who serve on the new panel should serve to prevent this occurrence in the future. Each member of the new panel should be on guard against inadvertent cooption to avoid succumbing to the friendly "cult of intelligence." John Stewart Mills contended, in his papers on representative government, that legislation control of administration is essential to liberty. Effective legislative oversight is wholly consistent with American legal traditions and precedents. While there is no need for Congress to put its fingers in the day to day operation of administrative agencies, there is a real need to interpose a continuing congressional presence into intelligence activities.

But I hope that no Member of this body considers our actions today anything more than the beginning. Intelligence oversight has been long in coming, but it is merely one step on the road to correcting abuses. The new committee will have to work quickly and will need all of our support to formulate and enact additional legislation: Legislation to prefect the FBI's intelligence charter, legislation to assure that analytical intelligence is legitimately used in policy determinations. New law will be required regarding the conduct of covert and clandestine activities. We have a long way to go before we have comprehensively addressed the various problems and to bring the intelligence function within the bounds of our Constitution and moral commitment.

Mr. JACKSON. Mr. President, in connection with today's passage of intelligence oversight legislation, I would like to make several observations.

I have long felt that effective oversight over the intelligence agencies of our Government is absolutely essential: Essential not only to curb possible abuses but also to provide clear-cut guidance to the intelligence community, so that the absolutely vital and necessary intelligence function could be performed within well-established and workable guidelines.

In 1956 I joined with the distinguished majority leader, Senator MANSFIELD, in cosponsoring the first intelligence oversight legislation presented to the U.S. Senate. Certain features of that legislation I found attractive at the time—and I still do. That proposal provided for the creation of a joint House-Senate committee for intelligence oversight. I believe a joint committee of the Congress is the best and wisest approach to fulfilling the responsibility of Congress for intelligence oversight. It would reduce the hazards of working at cross-purposes, and it would deter the possible development of an unhealthy competitive situation which could result in disclosures damaging to our national security.

I recognize sincere and vigorous efforts have been made by leaders of this body to create such a structure, without success. I sincerely hope in the future this type of arrangement will become possible.

I also believe the Congress is neither constitutionally nor philosophically equipped to duplicate the day-to-day operations of the executive branch of Government. I, therefore, hope the authority provided this committee will be used judiciously and constructively in performing the constitutionally mandated responsibility for oversight. Its members and staff will bear a heavy burden of responsibility because of the broad scope of intelligence information they will obtain.

The real requirement for successful congressional oversight is full knowledge of what is going on in the intelligence community; not to substitute a different set of daily decisionmakers for those in the Executive already charged with this responsibility.

Experience with the arrangements we are voting on today should provide us the lessons needed for future constructive development in this vital area.

Mr. HUDDLESTON. Mr. President, I am pleased to support Senate Resolution 400 to create a permanent Intelligence Oversight Committee.

The legislation before us represents the time, energy, and efforts of numerous Members of this body and staff. It re-

flects what I believe to be one of the greatest strengths of our democratic system and the legislative process—the ability to mediate among various interests and views and to develop a common understanding as to what will best serve our Nation and each of us as its citizens. Certainly there have been differences among us in this Chamber as to what Senate Resolution 400 should include, but I believe we have proceeded to debate and consider those differences in a most appropriate manner and that we have come to reasonable and realistic conclusions.

It is impossible to name all those who have contributed to this legislation but those who deserve particular commendation would certainly include the able floor managers, Senators RIBICOFF, CANNON, and PERCY, and Senators MANSFIELD, ROBERT C. BYRD, MONDALE, JAVITS, and CRANSTON. Senators BAKER, SCHWEIKER, MORGAN, GARY HART, MATHIAS, and CHURCH—all members of the select committee which investigated the intelligence operations of the Government—played important roles in developing the original proposal that has now gone through the legislative process and is ready for a final vote.

There can be no question as to the need for a strong, effective intelligence community. As we on the Select Committee on Intelligence Activities noted in our final report on foreign and military intelligence:

> We must have an early warning system to monitor potential military threats by counties hostile to United States interests. We need a strong intelligence system to verify that treaties concerning arms limitation are being honored. Information derived from the intelligence agencies is a necessary ingredient in making national defense and foreign policy decisions. Such information is also necessary in countering the efforts of hostile intelligence services, and in halting terrorists, international drug traffickers and other international criminal activities.

But that need can never justify illegal, unprincipled, or unacceptable actions—and it does not have to. We are completely capable of conducting intelligence operations within acceptable bounds, and we should do so. To follow any other practices not only undermines the support which such agencies must have among the American people, but also undermines the morale and effectiveness of the agencies themselves.

There can be no question that there has been too much secrecy in our Government, not just in the intelligence agencies, but throughout. It is well known that the classification system is abused. As former Attorney General Nicholas Katzenbach noted in a 1973 Foreign Affairs article:

> Classifiers have mixed the desire to keep information confidential and "closely held" for whatever reason, good or bad, with information actually affecting the "national defense". Perhaps worse, it is a perversion of the processes of government, because it does not force officials to consider honesty the reasons for confidentiality or the relevant time frame.

But an exaggerated emphasis on secrecy, either past or present, cannot be used to justify the abolition of all secrecy or controls. The nature of intelligence requires that many of its activities be closely held. Detailed discussions of sources and methods not only set the stage for rendering those sources and methods ineffective but in some cases impose dangers upon persons involved with them.

There can be no question that greater direction and oversight is needed in the intelligence sphere. Many of the abuses which our investigating committee discovered, many of the inefficiencies which the select committee's report discussed, might have been avoided with tighter controls both within the executive branch and in the Congress.

But, the need for such controls does not mean that we can either abolish our intelligence activities or overly restrict them.

There can be no question that public emphasis is on the dramatic, the unusual, the cloak and dagger, James Bond-type operations. Perhaps that is how both romantics and opponents of intelligence activities like to view them.

But, we must constantly be aware that there is much more to intelligence than that. Covert operations which receive so much attention—or notoriety as the case may be—are a miniscule portion of U.S. intelligence operations. The Central Intelligence Agency, which perhaps too often bears the brunt of attacks, is only one of a number of entities engaged in intelligence work. The spy, the counterspy, the mercenary is the exception, not the rule. In truth, a large portion of the intelligence community consists of researchers, analysts, and technicians, who work entirely outside the areas of controversy.

Furthermore, as McGeorge Bundy, former special assistant to the President for National Security Affairs noted in testimony before the Senate Government Operations Committee—

> It really is true that in the nature of things, the achievements of the intelligence community are less known than its failures: Its general good discipline is less noticed than its occasional irresponsibility and its usually cool and careful estimates of international reality are less noticed than the wild opinions of its occasional zealots.

These are some of the paradoxes; these are some of the conflicting interests which must be balanced—and they are the aspects which will, I believe, be balanced through the creation of the proposed permanent oversight committee.

As I noted in remarks earlier in this debate, three principal reasons mandate the creation of an oversight committee: the need to prevent any recurrence of illegal and unwise activities which have brought disfavor upon the agencies and ourselves; the fact that a number of activities, including covert operations, must be kept secret and controlled principally through an increased system of accountability; and the fact that the investigating committee's report indicated improvements could be made in the management and administration of the agencies.

For almost 30 years, Congress has allowed the oversight function to be exercised as an adjunct to other more pressing and demanding functions. It has failed to recognize and understand the realities and scope of an intelligence community which, especially in the years after World War II, was forced to operate in clandestine and secret ways or to confront the issue of massive technological developments which offer us greater protection and security but also hold the potential for greater abuse.

I believe the investigation which we in the Senate have conducted over the past 15 months has demonstrated that we cannot again stick our heads in the sand and hope things will all work out. Time, technology, and world events have forced upon us new duties, new responsibilities. The world does not stand still. Changed times, changed conditions, changed factors require that we have changed priorities, changed structures. The creation of a new committee will offer us the opportunity to deal with this.

But, that will not alter the fact that we have a number of committees in the Senate which must rely heavily upon the information which the intelligence community develops. I do not believe anyone would argue that the Armed Services or Foreign Relations Committees, for example, could adequately pursue their responsibilities without easy and constant access to the various intelligence agencies and the information which they possess. I do not believe that any of us in this body would want those committees to make recommendations to us on issues of war and peace, security and survival without fully considering all the pertinent data which our intelligence agencies have gathered and the best analysis which they are capable of making of that data. As I understand Senate Resolution 400, that access and availability is fully protected, and I would not support the legislation if I thought otherwise.

Furthermore, in an effort to insure that there is coordination between the new committee and the committees with jurisdiction over matters demanding intelligence information, Senate Resolution 400 provides that there will be a certain amount of membership overlap between the committees most affected and the new select committee.

I know that there has been concern over the possibility that an authorization process will lead to harmful disclosures regarding our intelligence spending. I understand these fears, but I would point out that Senate Resolution 400 does not require public disclosure of budget figures and I am confident that the new committee can manage the budgetary authority without undermining our intelligence activities.

Finally, I would like to focus briefly on two provisions with which I have been particularly involved. One relates to the reporting requirements. Section 4 of the resolution requires periodic reports to the Congress regarding intelligence activities. As a member of the Select Committee to Study Government Operations With Respect to Intelligence Activities, I proposed this section when our committee was drafting legislation to create a permanent oversight committee.

I testified before the Government Operations and Rules Committees regarding this provision and was pleased that it was included both in Senate Resolution 400 as reported from the Government Operations Committee and in the compromise version which was developed.

I believe this provision is important for three reasons: First, the secrecy surrounding intelligence operations has bred much suspicion. If more information can be made available, perhaps some of the cloud can be driven away. Second, as I have noted before, there is a widespread misunderstanding as to the nature of a large portion of our intelligence activities. If more can be understood about the routine but important functions, perhaps there can be greater understanding and support for such activities. Third, I think Members of the Senate are entitled to have more general knowldege about the activities of the intelligence agencies.

It is, I believe, important to note that the reports required by the section are to be made in a manner consistent with national security and that any report will be subject to the requirements in the resolution regarding disclosure of sensitive information. Finally, as the Government Operations report indicates, a minimum of at least one report per year would be expected from the new committee.

A second matter which I would like to discuss briefly, is the so-called Roth-Huddleston amendment regarding sanctions. Senator ROTH and I presented our proposal to the Government Operations Committee on which he serves; we have discussed this provision with numerous Senators; and we both testified before the Rules Committee regarding it.

Basically, the Roth-Huddleston amendment is designed to provide a practical, workable system of sanctions which could be utilized should we have the unfortunate experience of an unauthorized disclosure of intelligence information which either the new Intelligence Committee or the full Senate has determined should be kept secret pursuant to procedures recognized in Senate Resolution 400. Under our amendment, any sensitive information which the committee or the Senate had determined should be kept secret would have to be kept secret. It could not be publicly disclosed. Should there be an unauthorized disclosure, either by a Member or by a staff aide, that person would be subject to sanctions. The responsibility to investigate alleged unauthorized disclosures and recommend sanctions would be placed in the Senate Select Committee on Standards and Conduct. The Committee on Standards and Conduct would, of course, be free to recommend a range of sanctions—or even no sanctions—depending upon what its investigation indicated was appropriate. In order for sanctions to be imposed, they would have to be approved by the full Senate.

Certainly our jobs as legislators and policymakers in a number of areas would be easier if we had access to the tremendous amount of information which our intelligence agencies collect from a variety of sources about a wide scope of subjects. There is no doubt in my mind that more of the information—more of the material which informs, evaluates and assesses—can be made available to Members of Congress and to the public.

But, it also seems obvious that it is not only counterproductive but irresponsible to release information which could endanger the lives of those who collect and assemble our intelligence information, which could alert unfriendly nations to our methods of collecting information so that they could render those methods ineffective, which could reveal certain technological capabilities which we have, or which could seriously harm our society. To determine when such information would have these results is not an easy task. A cursory reading of material may not reveal the implications which one with expertise in the field could glean. The way material is presented or the perspective can often give hints as to where the information was obtained. The proposed committee will have to deal with this matter. Indeed, along with oversight, the distinguishing between what information should be released and what should be closely held will certainly be one of its prime concerns.

Thus, if we in Congress are to prove that we are capable of handling this information in a responsible manner, if we are to demonstrate that we can release that which should be released and protect that which must be protected, we must have viable and effective processes.

The Roth-Huddleston amendment seeks to provide such a process with regard to sanctions.

Our amendment is based on the constitutional right of each body of Congress to discipline its own Members. It does nothing to infringe upon the speech and debate clause of the Constitution which specifies that Members shall not be held accountable for their speeches, debates or deliberations "in any other place" than the Chamber in which they serve. This provision of the Constitution was designed to protect against intimidation by the executive branch or a hostile judiciary, not to prohibit Congress from disciplining its own membership. It has its precedence in the long-standing rule 36 which provides similar sanctions for the disclosure of "the secret or confidential business of the Senate."

In summary, Mr. President, our responsibility during consideration of this legislation has, at its most basic, been to balance the legitimate and unquestioned need to secure and protect that intelligence information upon which our Nation's well-being depends against the need of legislators for information necessary to perform their tasks and the need of the people in a free and open society to know and understand the policies which their government takes in their name.

Mr. President, I think Senate Resolution 400 does that in such a way as to provide us with an effective oversight committee and a strong intelligence community. I urge its adoption.

Mr. DOLE. Mr. President, I wish to indicate my support for Senate Resolution 400 which will establish a Select Committee on Intelligence. This legislation is responsive to the findings and recommendations of the Select Committee To Study Government Operations With Respent to Intelligence Activities. The new select committee which this legislation will establish will have sufficient authority and power to resolve the multifaceted problems which have plagued our nation's intelligence operations.

By combining the authority for legislative oversight and budget authorization and placing that authority with the new select committee, the pending resolution gives the committee the capability to review and correct the inappropriate and illegal activities which have recently come to the attention of Congress and the American people. The committee will have full subpena and investigative powers and the authority to disclose abuses where disclosure is in the public interest. Of course, serving the interests of Americans by both preserving privacy and protecting the national interest sometimes creates conflicts and problems. I trust that this legislation will make for improved handling of these important, although sometimes conflicting, interests.

In addition, the select committee will greatly assist Congress in performing its legislative duties in areas where Congress must rely on intelligence information. The select committee is specifically instructed, under the pending resolution, to make every effort to assure that the appropriate departments and agencies of the United States provide the informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of our Nation.

I am also confident that the select committee will effectively strengthen our intelligence position within the international community. The widely publicized leaks and abuses of the last 5 years have shackled and disrupted our intelligence effort to a point where its effectiveness has been greatly diminished.

The activities of the select committee can restore public confidence in our intelligence techniques and programs, halt the publication of confidential information, and restore the strength of our intelligence effort. This is of vital importance and should be a primary concern of the new select committee.

In this regard, I wish to express my strong support for sections 7 and 8 of the resolution and the process it establishes for the disclosure of classified information. By distributing the responsibility for the disclosure of such information between the President and the Senate, I feel we have established safeguards which will permit proper disclosure but also assure the security needed to maintain a top rate intelligence operation. Section 7 of the resolution would require the committee to formulate and carry out rules and procedures to prevent the disclosure of information which unnecessarily infringes upon any individual's privacy. As the ranking member of the Senate Finance Subcommittee on the Administration of the Internal Revenue Code, I intend to work for prompt passage of legislation to provide similar protection for information filed on an individual's tax return.

I look with great hope toward the operation of the new select committee and trust that it will operate as an effective brake on the abuses which prompted the investigation by the Select Committee To Study Government Operations With Respect to Intelligence Activities.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on the next rollcall vote be limited to 10 minutes, with the warning bells to be sounded after the first 2½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the committee substitute, as amended, is considered as having been adopted, and the Senate will now proceed to vote on the question of agreeing to Senate Resolution 400, as amended.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), and the Senator from Wyoming (Mr. McGEE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from North Carolina (Mr. HELMS), and the Senator from Delaware (Mr. ROTH) are necessarily absent.

On this vote, the Senator from Tennessee (Mr. BAKER) is paired with the Senator from North Carolina (Mr. HELMS). If present and voting, the Senator from Tennessee would vote "yea" and the Senator from North Carolina would vote "nay."

The result was announced—yeas 72, nays 22, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—72

Abourezk	Garn	Morgan
Bayh	Glenn	Moss
Beall	Gravel	Muskie
Bellmon	Griffin	Nelson
Bentsen	Hart, Gary	Nunn
Biden	Haskell	Packwood
Brooke	Hatfield	Pastore
Bumpers	Hathaway	Pearson
Burdick	Hollings	Pell
Byrd, Harry F., Jr.	Huddleston	Percy
	Humphrey	Proxmire
Byrd, Robert C.	Inouye	Randolph
Cannon	Jackson	Ribicoff
Case	Javits	Schweiker
Chiles	Kennedy	Scott, Hugh
Church	Leahy	Stafford
Clark	Magnuson	Stevens
Cranston	Mansfield	Stevenson
Culver	Mathias	Stone
Dole	McClellan	Symington
Domenici	McGovern	Tunney
Durkin	McIntyre	Weicker
Eagleton	Metcalf	Williams
Fong	Mondale	
Ford	Montoya	

NAYS—22

Allen	Hansen	Sparkman
Bartlett	Hruska	Stennis
Brock	Johnston	Taft
Buckley	Laxalt	Talmadge
Curtis	Long	Thurmond
Eastland	McClure	Tower
Fannin	Scott, William L.	Young
Goldwater		

NOT VOTING—6

Baker	Hartke	McGee
Hart, Philip A.	Helms	Roth

So the resolution (S. Res. 400) was agreed to, as follows:

S. RES. 400

Resolved, That it is the purpose of this resolution to establish a new select committee of the Senate, to be known as the Select Committee on Intelligence, to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the Senate appropriate proposals for legislation and report to the Senate concerning such intelligence activities and programs. In carrying out this purpose, the Select Committee on Intelligence shall make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the Nation. It is further the purpose of this resolution to provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States.

SEC. 2. (a) (1) There is hereby established a select committee to be known as the Select Committee on Intelligence (hereinafter in this resolution referred to as the "select committee"). The select committee shall be composed of fifteen members appointed as follows:

(A) two members from the Committee on Appropriations;

(B) two members from the Committee on Armed Services;

(C) two members from the Committee on Foreign Relations;

(D) two members from the Committee on the Judiciary; and

(E) seven members to be appointed from the Senate at large.

(2) Members appointed from each committee named in clauses (A) through (D) of paragraph (1) shall be evenly divided between the two major political parties and shall be appointed by the President pro tempore of the Senate upon the recommendations of the majority and minority leaders of the Senate. Four of the members appointed under clause (E) of paragraph (1) shall be appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate and three shall be appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(3) The majority leader of the Senate and the minority leader of the Senate shall be ex officio members of the select committee but shall have no vote in the committee and shall not be counted for purposes of determining a quorum.

(b) No Senator may serve on the select committee for more than eight years of continuous service, exclusive of service by any Senator on such committee during the Ninety-fourth Congress. To the greatest extent practicable, one-third of the Members of the Senate appointed to the select committee at the beginning of the Ninety-seventh Congress and each Congress thereafter shall be Members of the Senate who did not serve on such committee during the preceding Congress.

(c) At the beginning of each Congress, the Members of the Senate who are members of the majority party of the Senate shall elect a chairman for the select committee, and the Members of the Senate who are from the minority party of the Senate shall elect a vice chairman for such committee. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. Neither the chairman nor the vice chairman of the select committee shall at the same time serve as chairman or ranking minority member of any other committee referred to in paragraph 6(f) of rule XXV of the Standing Rules of the Senate.

(d) For the purposes of paragraph 6(a) of rule XXV of the Standing Rules of the Senate, service of a Senator as a member of the select committee shall not be taken into account.

SEC. 3. (a) There shall be referred to the select committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

(1) The Central Intelligence Agency and the Director of Central Intelligence.

(2) Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.

(3) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

(4) Authorizations for appropriations, both direct and indirect, for the following:

(A) The Central Intelligence Agency and Director of Central Intelligence.

(B) The Defense Intelligence Agency.

(C) The National Security Agency.

(D) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(E) The intelligence activities of the Department of State.

(F) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

(G) Any department, agency, or subdivision which is the successor to any agency named in clause (A), (B), or (C); and the activities of any department, agency, or subdivision which is the successor to any department, agency, bureau, or subdivision named in clause (D), (E), or (F) to the extent that the activities of such successor department, agency, or subdivision are activities described in clause (D), (E), or (F).

(b) Any proposed legislation reported by the select committee, except any legislation involving matters specified in clause (1) or (4) (A) of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within thirty days after the day on which such proposed legislation is referred to such standing committee; and any proposed legislation reported by any committee, other than the select committee, which contains any matter within the jurisdiction of the select committee shall, at the request of the chairman of he select committee, be referred to the select committee for its consideration of such matter and be reported to the Senate by the select committee within thirty days after the day on which such proposed legislation is referred to such committee. In any case in which a committee fails to report any proposed legislation referred to it within the time limit prescribed herein, such committee shall be automatically discharged from further consideration of such proposed legislation on the thirtieth day following the day on which such proposed legislation is referred to such committee unless the Senate provides otherwise. In computing any thirty-day period under this paragraph there shall be excluded from such computation any days on which the Senate is not in session.

(c) Nothing in this resolution shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects

a matter otherwise within the jurisdiction of such committee.

(d) Nothing in this resolution shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the Senate to obtain full and prompt access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

SEC. 4. (a) The select committee, for the purposes of accountability to the Senate, shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various dpartments and agencies of the United States. Such commitee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters requiring the attention of the Senate or such other committee or committees. In making such reports, the select committee shall proceed in a manner consistent with section 8(c)(2) to protect national security.

(b) The select committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such reports shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interests. An unclassified version of each report may be made available to the public at the discretion of the select committee. Nothing herein shall be construed as requiring the public disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the divulging of inteligence methods employed or the sources of information on which such reports are based or the amount of funds authorized to be appropriated for intelligence activities.

(c) On or before March 15 of each year, the select committee shall submit to the Committee on the Budget of the Senate the views and estimates described in section 301 (c) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

SEC. 5. (a) For the purposes of this resolution, the select committee is authorized in its discretion (1) to make investigations into any matter within its jurisdiction, (2) to make expenditures from the contingent fund of the Senate, (3) to employ personnel, (4) to hold hearings, (5) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (6) to require, by subpena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (7) to take depositions and other testimony, (8) to procure the service of consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, and (9) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The chairman of the select committee or any member thereof may administer oaths to witnesses.

(c) Subpenas authorized by the select committee may be issued over the signature of the chairman, the vice chairman, or any member of the select committee designated by the chairman, and may be served by any person designated by the chairman or any member signing the subpena.

SEC. 6. No employee of the select committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing and under oath to be bound by the rules of the Senate (including the jurisdiction of the Select Committee on Standards and Conduct) and of such committee as to the security of such information during and after the period of his employment or contractual agreement with such committee; and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

SEC. 7. The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

SEC. 8. (a) The select committee may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the select committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this section.

(b)(1) In any case in which the select commtitee votes to disclose publicly any information which has been classified under established securtiy procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, such committee shall notify the President of such vote.

(2) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President, personally in writing, notifies the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is of such gravity that it outweighs any public interest in the disclosure.

(3) If the President, personally in writing, notifies the select committee of his objections to the disclosure of such information as provided in paragraph (2), such committee may, by majority vote, refer the question of the disclosure of such information to the Senate for consideration. The committee shall not publicly disclose such information without leave of the Senate.

(4) Whenever the select committee votes to refer the question of disclosure of any information to the Senate under paragraph (3), the chairman shall, not later than the first day on which the Senate is in session following the day on which the vote occurs, report the matter to the Senate for its consideration.

(5) One hour after the Senate convenes on the fourth day on which the Senate is in session following the day on which any such matter is reported to the Senate, or at such earlier time as the majority leader and the minority leader of the Senate jointly agree upon in accordance with section 133(f) of the Legislative Reorganization Act of 1946, the Senate shall go into closed session and the matter shall be the pending business. In considering the matter in closed session the Senate may—

(A) approve the public disclosure of all or any portion of the information in question, in which case the committee shall publicly disclose the information ordered to be disclosed,

(B) disapprove the public disclosure of all or any portion of the information in question, in which case the committee shall not publicly disclose the information ordered not to be disclosed, or

(C) refer all or any portion of the matter back to the committee, in which case the committee shall make the final determination with respect to the public disclosure of the information in question.

Upon conclusion of the consideration of such matter in closed session, which may not extend beyond the close of the ninth day on which the Senate is in session following the day on which such matter was reported to the Senate, or the close of the fifth day following the day agreed upon jointly by the majority and minority leaders in accordance with section 133(f) of the Legislative Reorganization Act of 1946 (whichever the case may be), the Senate shall immediately vote on the disposition of such matter in open session, without debate, and without divulging the information with respect to which the vote is being taken. The Senate shall vote to dispose of such matter by one or more of the means specified in clauses (A), (B), and (C) of the second sentence of this paragraph. Any vote of the Senate to disclose any information pursuant to this paragraph shall be subject to the right of a Member of the Senate to move for reconsideration of the vote within the time and pursuant to the procedures specified in rule XIII of the Standing Rules of the Senate, and the disclosure of such information shall be made consistent with that right.

(c)(1) No information in the possession of the select committee relating to the lawful intelligence activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to subsection (a) or (b) of this section, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The select committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the select committee makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee which, receives any information under this subsection, shall disclose such information except in a closed session of the Senate.

(d) It shall be the duty of the Select Committee on Standards and Conduct to investigate any unauthorized disclosure of intelligence information by a Member, officer or employee of the Senate in violation of sub-

section (c) and to report to the Senate concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Select Committee on Standards and Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

SEC. 9. The select committee is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closd meeting of such committee.

SEC. 10. Upon expiration of the Select Committee on Governmental Operations With Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress, all records, files, documents, and other materials in the possession, custody, or control of such committee, under appropriate conditions established by it, shall be transferred to the select committee.

SEC. 11. (a) It is the sense of the Senate that the head of each department and agency of the United States should keep the select committee fully and currently informed with respect to intelligence activities, including any significant anticipated activities, which are the responsibility of or engaged in by such department or agency: *Provided,* That this does not constitute a condition precedent to the implementation of any such anticipated intelligence activity.

(b) It is the sense of the Senate that the head of any department or agency of the United States involved in any intelligence activities should furnish any information or document in the possession, custody, or control of the department or agency, or person paid by such department or agency, whenever requested by the select committee with respect to any matter within such committee's jurisdiction.

(c) It is the sense of the Senate that each department and agency of the United States should report immediately upon discovery to the select committee any and all intelligence activities which constitute violations of the constitutional rights of any person, violations of law, or violations of Executive orders, Presidential directives, or departmental or agency rules or regulations; each department and agency should further report to such committee what actions have been taken or are expected to be taken by the departments or agencies with respect to such violations.

SEC. 12. Subject to the Standing Rules of the Senate, no funds shall be appropriated for any fiscal year beginning after September 30, 1976, with the exception of a continuing bill or resolution, or amendment thereto, or conference report thereon, to, or for use of, any department or agency of the United States to carry out any of the following activities, unless such funds shall have been previously authorized by a bill or joint resolution passed by the Senate during the same or preceding fiscal year to carry out such activity for such fiscal year:

(1) The activities of the Central Intelligence Agency and the Director of Central Intelligence.

(2) The activities of the Defense Intelligence Agency.

(3) The activities of the National Security Agency.

(4) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(5) The intelligence activities of the Department of State.

(6) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

SEC. 13. (a) The select committee shall make a study with respect to the following matters, taking into consideration with respect to each such matter, all relevant aspects of the effectiveness of planning, gathering, use, security, and dissemination of intelligence:

(1) the quality of the analytical capabilities of United States foreign intelligence agencies and means for integrating more closely analytical intelligence and policy formulation;

(2) the extent and nature of the authority of the departments and agencies of the executive branch to engage in intelligence activities and the desirability of developing charters for each intelligence agency or department;

(3) the organization of intelligence activities in the executive branch to maximize the effectiveness of the conduct, oversight, and accountability of intelligence activities; to reduce duplication or overlap; and to improve the morale of the personnel of the foreign intelligence agencies;

(4) the conduct of covert and clandestine activities and the procedures by which Congress is informed of such activities;

(5) the desirability of changing any law, Senate rule or procedure, or any Executive order, rule, or regulation to improve the protection of intelligence secrets and provide for disclosure of information for which there is no compelling reason for secrecy;

(6) the desirability of establishing a standing committee of the Senate on intelligence activities;

(7) the desirability of establishing a joint committee of the Senate and the House of Representatives on intelligence activities in lieu of having separate committees in each House of Congress, or of establishing procedures under which separate committees on intelligence activities of the two Houses of Congress would receive joint briefings from the intelligence agencies and coordinate their policies with respect to the safeguarding of sensitive intelligence information;

(8) the authorization of funds for the intelligence activities of the Government and whether disclosure of any of the amounts of such funds is in the public interest; and

(9) the development of a uniform set of definitions for terms to be used in policies or guidelines which may be adopted by the executive or legislative branches to govern, clarify, and strengthen the operation of intelligence activities.

(b) The select committee may, in its discretion, omit from the special study required by this section any matter it determines has been adequately studied by the Select Committee To Study Governmental Operations With Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress.

(c) The select committee shall report the results of the study provided for by this section to the Senate, together with any recommendations for legislative or other actions it deems appropriate, no later than July 1, 1977, and from time to time thereafter as it deems appropriate.

SEC. 14. (a) As used in this resolution, the term "intelligence activities" includes (1) the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and other activity which is in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement or other association; (4) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States, and covert or clandestine activities directed against such persons. Such term does not include tactical foreign military intelligence serving no national policymaking function.

(b) As used in this resolution, the term "department or agency" includes any organization, committee, council, establishment, or office within the Federal Government.

(c) For purposes of this resolution, reference to any department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in intelligence activities now conducted by the department, agency, bureau, or subdivision referred to in this resolution.

SEC. 15. For the period from the date this resolution is agreed to through February 28, 1977, the expenses of the select committee under this resolution shall not exceed $275,000, of which amount not to exceed $30,000 shall be available for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(i) of the Legislative Reorganization Act of 1946. Expenses of the select committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SEC. 16. Nothing in this resolution shall be construed as constituting acquiescence by the Senate in any practice, or in the conduct of any activity, not otherwise authorized by law.

The title was amended so as to read: "A resolution establishing a Select Committee on Intelligence."

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPARKMAN. Mr. President, will the Senator yield for a unanimous-consent agreement?

Mr. RIBICOFF. May I take just 2 minutes to finish?

Mr. SPARKMAN. Surely.

Mr. RIBICOFF. Mr. President, I thank the Senate as a whole for its overwhelming vote. The Senate saw its duty and it did it. But there are some people in this body who should be singled out for special appreciation.

Our majority leader (Mr. MANSFIELD), some 20 years ago, suggested to Congress that there should be an oversight committee on intelligence. As is usual with the majority leader, he was foresighted and farsighted. If we had accepted his

recommendation, the problems that have developed over the years would have been eliminated and the intelligence agency and this body would have been better off for it.

Special appreciation should be given to the distinguished Senator from Idaho. He was given an unwelcome task. It was his obligation to try to straighten out a mess that we had been confronted with. It was a great responsibility to conduct the hearings of the select committee in a way that would not do harm to the intelligence community and, at the same time, lay the foundation to correct the abuses of the past, to assure that the intelligence community would survive and would be able to do its job in the future, while preserving the personal and civil liberties of our people.

Senator CANNON of Nevada, chairman of the Committee on Rules, was faced with the responsibility of reviewing the resolution after the Committee on Government Operations. The Committee on Rules came up with a different proposal, but I want to pay great tribute to Senator Cannon for working out the Cannon substitute, which formed the basis for the resolution adopted today.

Senator PERCY, the ranking minority member of the Committee on Government Operations, has been and is a joy for me to work with. Looking back at my chairmanship of this committee and the role of the ranking minority Member from Illinois, practically every proposal coming out of the Government Operations Committee has been treated on a bipartisan basis. We were able to work out carefully and closely constructive legislation which has the support of the Senate as a whole.

Senator CRANSTON, Senator WEICKER, Senator MONDALE, Senator CLARK, Senator HATFIELD, Senator HUDDLESTON, Senator MORGAN, and Senator JAVITS made significant contributions.

Above all, Mr. President, I pay special tribute to the majority whip (Mr. ROBERT C. BYRD). During the markup in the Committee on Rules, he insisted on, first, perfecting Senate Resolution 400. I felt, and the committee felt, that we had reported out a good resolution, but Senator Byrd, with his sharp eye and his knowledge of the Senate and its rules and procedures, did spot a number of weaknesses. He went to work, carefully and thoughtfully, perfecting Senate Resolution 400.

When the Committee on Rules voted out its own substitute, the Senate was headed for a real battle. There were strong feelings on both sides, and it was my conclusion that if we reached this confrontation, the Senate as a whole would have been the loser. This bill would have taken weeks instead of days. Then Senator BYRD was a strong force behind Senator CANNON and myself and other representatives of the Committee on Government Operations, the Church Committee, and the Committee on Rules getting together with Senator BYRD to work out the compromise known as the Cannon substitute. My personal feeling is that, were it not for Senator BYRD's intervention and his wise counsel in how to perfect the Cannon resolution, we would not have been able to pass this outstanding and intelligent bill that is now the law of the Senate, Senate Resolution 400.

Finally, high praise to Mr. Dick Wegman, Paul Hoff, Paul Rosenthal, John Childers, Claudia Ingram, Jim Davidson, Brian Conboy, Andrew Loewi and other members of our staff who backed us up so ably and completely. Without an able staff such as represented by these ladies and gentlemen, we would not have been able to bring forth the type of legislation that we have today passed.

I take this opportunity to pay tribute to all these gentlemen.

Mr. PERCY. Mr. President, I shall be very brief, and I appreciate the courtesy of my colleague from Utah.

Mr. President, I should like to respond to the chairman of the Government Operations Committee, Senator RIBICOFF, in first expressing to him my very deep appreciation for the very thoughtful comments that he made about the Senator from Illinois.

It is with a great sense of respect and affection that the Senator from Illinois has worked on any number of matters involving the Government Operations Committee with the Senator from Connecticut. He has found him one of the fairest, most competent, determined and dedicated men with whom the Senator from Illinois has ever worked in industry or in Government.

It is a tremendous pleasure to work with him, and I pay great tribute to him for not only this piece of legislation but many, many other landmark pieces of legislation we have been privileged to work on together.

I join with him in expressing our deep appreciation to Senator MANSFIELD, the majority leader, for the inspiration that he provided 20 years ago for the resolution that has just been adopted by the Senate.

I also join in paying great tribute to our assistant majority leader, Senator ROBERT C. BYRD, without whose brilliance in this matter we would not have been able to have moved ahead as rapidly and as effectively. And certainly to Senator CANNON, who has also been a major force in moving us ahead.

I pay great tribute to Senator WEICKER particularly who, on a number of occasions, took over the minority side of floor management of this bill when the Senator from Illinois was unable to be on the floor. I express my deep appreciation not only for that work that he did here but also for the work that he did on the resolution as it was guided through the Government Operations Committee, and for the work that he did previously on the Watergate Committee that prepared him so well for this.

I would like to pay tribute to Senators BROCK, ROTH, JAVITS, MATHIAS and SCHWEIKER; to Senators CHURCH, BAKER, CRANSTON, and MONDALE, and to all members of their staffs and the staff of the Government Operations Committee, and the staff of the Committee on Rules and Administration, with my deep appreciation for the fine work that has resulted in this virtually unanimous vote that we had on a very, very complex mattter. Particularly I pay tribute to the staff of the Government Operations Committee—Dick Wegman, Paul Hoff, Paul Rosenthal, Claudia Ingram, Brian C[illegible] boy and especially to John Ch[illegible] minority counsel, and Ted van Gil[illegible] whose help was invaluable and without whom passage of Senate Resolution 400 would not have been possible.

Mr. MANSFIELD. Mr. President, this is an historic occasion, and I want to pay tribute to the many Members of the Senate whose tireless and dedicated work has made possible the establishment of the new Select Committee.

The passage of Senate Resolution 400 marks the beginning of a new era of responsibility and accountability in the conduct of intelligence activities by the Federal Government.

Many Members of this body have served responsibly and with distinction to achieve that result. They deserve the gratitude of all of us and the American people.

The adoption of Senate Resolution 400 is the culmination of more than a year's exacting work by the members of the Select Committee on Intelligence Activities. The Senator from Idaho Mr. CHURCH was given a difficult assignment, and he has led his committee in a sensitive and responsible manner. He and the 11 members of that committee have devoted countless hours to the exposure of unlawful and unethical practices by the CIA, the FBI and the military intelligence agencies. They have published exhaustive and detailed findings and recommendations which are a credit [illegible] the Congress and the Nation.

Senate Resolution 400 was referred to two Senate committees, the Committee on Government Operations and the Committee on Rules and Administration. Under the able leadership of the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. PERCY), the Senator from Nevada (Mr. CANNON), and the Senator from Oregon (Mr. HATFIELD), those committees handled difficult, sensitive, and controversial questions of committee jurisdiction. While they took different approaches to these questions, under their leadership and under the leadership of the able assistant majority leader the Senator from West Virginia (Mr. BYRD), the Senator from Minnesota (Mr. MONDALE), the Senator from Connecticut (Mr. WEICKER), and the Senator from Illinois (Mr. PERCY) the resolution we have just passed is a compromise measure in the best traditions of the Senate.

I want to pay special tribute to these Senators and to all others who have worked so long and responsibly to achieve that compromise.

Mr. KENNEDY. Mr. President, I rise as a Member of the Senate who was neither a member of the Rules Committee nor the Intelligence Committee to commend those Members who have performed such a noble service for the Senate in bringing about the new action we have taken in establishing the Intell[illegible] gence Committee.

Their names are well known to the

Members of the Senate, but they are not as well known, perhaps, to the American people. But any review of the history of this achievement would have to recognize the very special work that was done by the chairman of the Select Committee, the Senator from Idaho (Mr. CHURCH), the chairman of the Government Operations Committee (Mr. RIBICOFF), the chairman of the Rules Committee (Mr. CANNON), majority whip (Mr. ROBERT C. BYRD), Senator PERCY, and Senator CRANSTON.

I acknowledge the very extraordinary accomplishment they achieved. I want to mention just a special commendation for them. But I also, Mr. President, want to join my colleagues in singling out what I consider to be the most important force in the Senate over the period of recent weeks, months, and, yes, years: the spirit and energy of our majority leader. He has played really the central role in fashioning this particular resolution which has recently been passed overwhelmingly by this body.

Mr. President, if we think back over the period of years, the majority leader was the first Member of Congress to offer to the Senate of the United States the suggestion that a separate intelligence committee be established, we can see his foresightedness in this particular matter.

I think many of us remember the caucuses which took place over a year ago where this issue was debated, and with a great deal of heat and with a great deal of passion, and not without mistakes on many sides. But nonetheless, I think the persistence of the majority leader in forming the Intelligence Committee, the Church committee, and giving that the kind of support without which I do not think that committee could have performed the great public service that it did perform. And finally, in fashioning this compromise, the majority leader was showing us the exercise leadership at its best in the Senate. This will stand as one more monument to his firm and effective guiding hand.

As a Member who observed and watched and supported this particular proposal, I mention what I think has been an additional signal leadership of the leader in this important area, and any evaluation of the history of this proposal has to put the contribution of the leader right at the top.

Mr. CANNON. Mr. President, I would like to offer a few comments concerning the intelligence oversight legislation we have passed today.

During the course of our deliberations I have had foremost in my mind one overriding consideration. That is the absolute necessity of maintaining a viable and effective intelligence service for the protection of our country. In today's uncertain world there is no substitute for accurate, timely intelligence. I have fought hard to resist actions which I felt would damage our capability, to provide our country's leadership with the information they need.

I have also recognized that the Congress has a clear cut responsibility to exercise its constitutional mandate for oversight in this senstive area, not only to insure that intelligence operations are conducted in accordance with our Constitution, but also to assist our intelligence services by providing clear guidelines for their activities.

The need for improved intelligence oversight has been recognized by virtually every witness who has appeared before the concerned committees. However, a wide range of views have been presented as to how to best accomplish that goal.

Our deliberations on this legislation have clearly shown us it is impossible to develop a perfect mechanism for intelligence oversight without an opportunity to observe it in action. I, therefore, view this legislation as a first step in dealing with this complicated problem. Experience will provide us valuable information for future actions to improve on what we have created.

I have expressed my reservations concerning some aspects of the proposals presented to us. I believe a joint committee of the Congress for intelligence oversight would be a far more workable structure than a separate Senate committee. I am concerned that the organization we have created might involve itself in the operation of our intelligence services beyond the proper constitutional role of the Congress.

I am also concerned about the unauthorized disclosure of classified information. Any reasonable person must recognize that some information must be kept secret for our own protection. I believe great care must be exercised by the committee to insure no unauthorized disclosures emanate from its operations.

I share the view of many that it is virtually impossible to separate military intelligence from the total military picture. Military intelligence is integral to the responsibilities of our Armed Forces as an essential element of military planning and operations. I believe we would be in a far sounder position to leave authorization authority for that function within the committee of the Senate charged with overall responsibility for our Armed Forces.

However, in the interest of taking this vital first step for congressional oversight of intelligence activities we have developed what appears to be the most workable approach. Lessons we learn in the future will help us refine it.

Mr. CRANSTON. Mr. President, now that we have finally established a permanent committee of the Senate to oversee the intelligence agencies, to be fully and currently informed as to their activities, and to authorize budgets for them, I want to pay a special tribute to the decades-long effort by our leader toward this end.

One of the most important goals of Senator MANSFIELD's public life has been to make these agencies—a dark corner of government to the public and to most Members of the Senate—accountable to Congress for their activities and their expenditures. Most recently, he was intimately involved in establishing the Church committee and supporting its work. Now, in these final days, he has given his energy and good spirit to working out the compromise that enabled the new Intelligence Committee to come into being. So I salute Senator MANSFIELD for leading us the whole mile.

I would also, once again, draw attention to the work of the principal architects of the compromise. In addition to Senator MANSFIELD, they were the Majority Whip, Senator BYRD of West Virginia, the chairman of the Government Operations Committee, Senator RIBICOFF—who floor managed the bill so magnificently, with his infinite concern for detail as well as for the broad policy matters involved—and the chairman of the Rules Committee, Senator CANNON, who also was involved in steering this bill through so effectively. The work of Senator CHURCH was also invaluable and indispensible, as was the work of so many members of his committee. On the other side of the aisle, special mention should be made of the fine work of Senator PERCY and Senator WEICKER.

EFFECTIVE OVERSIGHT OF U.S. INTELLIGENCE: LONG OVERDUE

Mr. BIDEN. Mr. President, our action today in creating a mechanism for effective senatorial oversight of U.S. intelligence is a tribute to Senator MANSFIELD's vision in having seen the need for such a step, two decades ago, and having campaigned for it since that time. It is only a pity that it has taken us 20 years to accomplish this.

There is no question but that existing congressional oversight procedures have been inadequate. For all these years we have been voting intelligence appropriations pretty much in the dark: unknown sums for unknown services. And in addition to the legitimate services rendered, we now know that there have been numerous transgressions of the law and numerous infringements of our constitutional rights. Republican and Democratic administrations, alike, have been infatuated with covert operations abroad, even though the results of many of them have been self-defeating to America's interest; the Congress has meanwhile acquiesced in these operations even though they undercut Congress constitutional prerogatives concerning the conduct of foreign relations. More than one President has used U.S. intelligence as a political instrument, and has politicized objective intelligence analysis. Year by year, there has been more and more intelligence bureaucracy, more and more intelligence overkill, and more and more bureaucratic feudalism.

We now have the realistic opportunity to help the executive to reform these practices and to give the American taxpayer a better political and economic accounting concerning our vast intelligence community. Our thanks are due to the splendid and responsible job which the Senate Select Committee on Intelligence has done in examining these questions—and in demonstrating in the process that senatorial security can be kept, and leaks discouraged.

We should nonetheless recognize as well that our country's many problems with intelligence have not resulted just from past CIA, FBI, or NSA overenthusiasms, or from the unaccountability—in real terms—of present and past administrations, but from our own, congres-

sional, derelictions. We have collectively been too casual and inattentive, and at times too easily gulled, in not demanding genuine executive accountability. We have too easily settled instead for a buddy system which in practice has often assured the last possible communication of intelligence reality to the Congress.

Thus we should congratulate not only the select committee, but the Government Operations and Rules Committees for the imaginative and responsible way in which they formed a constructive compromise solution for the new Senate Select Committee on Intelligence which I sincerely hope we will vote into being.

Now our real challenge and work begin: to insure that the Senate continues to monitor U.S. intelligence alertly, so that the country's legitimate intelligence processes may be maintained and strengthened, the appropriate offices of the executive branch be kept meaningfully accountable, and the tax moneys of the American people wisely spent. The Senate has done a fine and needed piece of business. Let us hope that it will continue to show the vigilance necessary to help give the country the finest and most responsible intelligence establishment possible, and to help restore the country's confidence in those processes.

Mr. NELSON. Mr. President, by its action today, the Senate can take an important step toward insuring that the abuses committed by the intelligence agencies will not recur. The Senate's willingness to alter its institutional arrangements to create a new committee with legislative jurisdiction would reflect some recognition that the present system of overseeing the intelligence agencies has been a dismal failure; that the extraordinary revelations of the Church committee reguire an extraordinary response; that "business as usual" cannot be the order of the day when constitutional rights have been imperiled on a large scale.

Action in this area is long overdue. The tip of the iceberg uncovered by Watergate and the Church and Pike committees has been evident for years. In 1971, a year before the Watergate breakin, I introduced legislation to create a commission composed of both public and congressional members charged with the responsibility to "investigate the entire range of domestic surveillance" and recommend oversight legislation. Three times since June 1973, I have introduced legislation calling for a committee to conduct oversight of domestic surveillance. No action was taken on these bills. As the disclosures in the aftermath of Watergate illuminated more clearly the need for such a committee, I introduced Senate Resolution 231 last summer, which the Senate adopted, committing itself to a timetable requiring action on oversight legislation by June 1, 1976.

Although the deliberateness of the Senate's response to the disclosed abuses of the intelligence agencies has been frustrating, it may have served a useful purpose. Perhaps in this area, it was not enough to glimpse the tip of the iceberg. We needed to know that the abuses were not simply the excesses of one man or one administration. We needed to see that the techniques of a police state were employed, not sporadically, but systematically. We needed to realize that the covert actions conceived and implemented in secrecy by a handful of men in the executive branch have become a major thread of our foreign policy, and that the consequences have often been disastrous. Certainly after learning all this the Senate must take action signalling our awareness that intelligence activities can no longer be the sole province of the President; that they must be carried on in conformity with the Constitution—that indeed, in our society, "national security" can ultimately be safeguarded only by deep respect for law and democratic principles.

At least it is my sincere hope that our action today reflects an understanding of these fundamental lessons, for there is no magic to creating a new committee, and without this understanding, this committee can fail in its oversight as surely as its predecessors did.

The debate on this measure has not been altogether reassuring. Obviously, the version of Senate Resolution 400 on which we are voting is very much a compromise between the resolutions reported by the Government Operations Committee and the Rules Committee. In large part, it is a successful compromise which manages to grant the new committee necessary legislative jurisdiction while protecting the legitimate interests of the standing committees by providing for concurrent jurisdiction and sequential referral of legislative proposals.

However, during the compromise, the controversial section governing the procedure for disclosing classified information was changed. In the Government Operations version, if the Intelligence Committee voted to disclose classified information, and the President, after being notified, interposed an objection, the committee's decision would stand unless one-third of the committee voted to bring the matter to the full Senate for a decision. Under the compromise version, once the President objects, the information could be disclosed only by a vote of the full Senate, even if the committee was unanimously in favor of disclosure. When Senator ABOUREZK offered an amendment last week to return to the approach of the Government Operations draft, it was tabled by a vote of 77 to 13.

In reaching this decision, the Senate undercuts its new committee. We set the stage for a possible replay of the controversy in the House over release of the Pike committee report. In that case, the committee decided to publicly release its report containing some classified information. The committee members were fully familiar with the information and made the judgment that its release would not jeopardize national security. The committee was overridden by the full House, responding to public and Presidential pressure, despite the fact that few of the members were in the position to seriously consider whether any of the material would injure national security.

If the Senate had left the responsibility for deciding whether classified information should be released with the committee, it would have provided the maximum guarantee that the decision would be based on whether the release of the material would actually impair national security. By opting for this compromise section, the Senate makes it likely that decisions on classified information will reflect undue deference to the executive's classification system. This system has no basis in law or reason. Senator MUSKIE's Subcommittee on Integovernmental Relations has made it clear that overclassification is routine, and that perhaps as much as 75 percent of material classified should not be.

The classification system has been a major pillar in the edifice which has become known as the "imperial presidency." By accepting the presumptive validity of a classification system which is obviously flawed and which the Congress had no part in creating, we undermine our claim to be a coequal branch of the Government, the premise on which this resolution is based. To the extent that this decision was prompted by the change in public opinion following the "leaking" of the Pike report, it is most unfortunate. Despite what the executive branch would have us believe, the paramount issue before us is how to curb the abuses of the intelligence agencies and the executive branch, and not how to maintain secrecy.

Only time will tell how effective this committee will be. At present, we can safely say that while the creation of this committee is a necessary step, it will not be sufficient. The reform of the intelligence agencies to prevent the continuation and recurrence of abuses can be seen as at least a three-stage process. After the abuses are exposed and the committee is created, significant legislation must be considered and enacted. The Church committee has transmitted a formidable legislative agenda. Its recommendations included the tasks of rewriting the 1947 National Security Act, and setting forth charters for the various intelligence agencies. Without attempting to explore the merits of any specific proposals, the basic need for legislative action seems clear.

Although the failure of Congress to perform its oversight responsibilities has been discussed at length, the failure to write legislation telling the intelligence community and the public what surveillance techniques are legal and which are not and defining the jurisdictional limits of each agency represents an equally serious abdication of congressional responsibility. If practices like warrantless wiretapping, politically motivated tax audits, or attempted assassinations of foreign leaders abroad are as repugnant to the majority of Americans as they are to me, they should be outlawed as a matter of Federal law. It is dangerous to leave various intelligence practices in a gray area where they are generally disapproved by public opinion but not clearly outlawed.

Judicial decisions in cases brought by victims of Government surveillance may help develop the law concerning what is prohibited by the first and fourth amendments, but final decisions in these

cases can take years, vary from court to court and case to case or ultimately turn on some technical point rather than the merits. In the interest of public confidence and for the benefit of the intelligence agencies themselves, there is no substitute for carefully drawn legislative guidelines and statutory prohibitions on certain practices.

The tasks remaining for the new committee, then, and the Congress as a whole, are formidable. It is my hope that the committee will discharge its responsibilities as effectively as the Church committee did. In its 15-month tenure, the committee conducted the first exhaustive study of our intelligence apparatus since 1947. The committee deliberations were conducted in a bipartisan, thorough, deliberate manner in which the foremost commitment was to obtaining the truth. Despite the delicate nature of the task and the constant possibility of clashes with the Executive over sensitive materials, the committee avoided confrontation on the one hand and "leaks" on the other, while managing to present a comprehensive report, documenting a stunning array of abuses. The committee's efforts were a credit to its members, its staff and the Senate, and its legislative recommendations deserve careful study by the new select committee.

AMENDMENT OF THE FEDERAL TRADE COMMISSION ACT

Mr. MOSS. Mr. President, I ask that the Senate proceed to the consideration of a message from the House of Representatives on H.R. 12527, and I ask that the Chair lay that message before the Senate.

The PRESIDING OFFICER (Mr. LAXALT) laid before the Senate H.R. 12527, an act to amend the Federal Trade Commission Act to increase the authorization of appropriations for fiscal years 1976 and 1977, and for other purposes, which was read twice by its title.

The Senate proceeded to consider the bill.

Mr. MOSS. Mr. President, this matter has been cleared with both sides of the Commerce Committee, with the leadership of the minority side as well as the majority side.

On Monday, the House of Representatives passed H.R. 12527 which contains three provisions. These are:

First. An increase in the fiscal 1976 authorization, which the Commission needs in order to make it through until June 30, 1976.

Second. An increase in the existing fiscal 1977 authorization, and

Third. Extension of time for the filing of certain reports required pursuant to the Magnuson-Moss Act.

Earlier this year, the Senate passed an FTC authorization for fiscal 1976, 1977, and 1978, S. 2935. Coupled with the increased authorization were numerous substantive amendments to the FTC Act and other acts which the Commission administers. The House Committee on Interstate and Foreign Commerce has held hearings on these substantive amendments, but by the time of the May 15 deadline was only able to report the authorizations and the extension of time for the required reports. It is my understanding that the House committee will continue with its consideration of the substantive amendments, but at this time, we believe that it is imperative that the Commission be authorized the increased funds which it needs through June 30, 1976, and the extension of time that is needed for submission of the report required under the Magnuson-Moss Act.

Therefore, I send to the desk an amendment which has been cleared on both sides. This amendment would delete the fiscal 1977 authorization from the bill, and amend the title to reflect this deletion. By moving ahead now with the needed fiscal 1976 supplemental authorization, we will not delay the Commission from its important work while we consider the fiscal 1977 authorization and substantive amendments to the FTC Act.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

On page 1, beginning on line 5 strike out "; and by striking out '$50,000,000' and inserting in lieu thereof '$57,233,000' ".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall it pass?

So the bill (H.R. 12527) was passed.

The title was amended so as to read: "An Act to amend the Federal Trade Commission Act to increase the authorization of appropriations for fiscal year 1976, and for other purposes."

EDWARD GORIN AND FAMILY REUNITED IN BALTIMORE

Mr. MATHIAS. Mr. President, all of us in America can rejoice that Edward Gorin and his family, formerly unwilling residents of the Soviet Union, were reunited in Baltimore last week after a separation of almost 4 years.

For Edward Gorin, a violinist with the Baltimore Symphony Orchestra, those 4 years were marked by delays and disappointments, and by discouragement verging often on despair.

For his wife, Sophia Belotserkovskaya left in Moscow with their two little daughters, it was far worse. There were repeated visa applications and repeated refusals. There were threats, harrassments and hostile interrogation. There was isolation. But there was tremendous courage as well. Sophia never gave up.

The Gorins' problems with Soviet authorities began in July 1972 when Mr. Gorin, then first violinist with the Symphony Orchestra of All Union Radio and Television of the U.S.S.R., refused to join in denunciations of fellow musicians who had emigrated to Israel. For this honorable conduct, he was dismissed from the orchestra and barred from further employment in the U.S.S.R.

The Gorins then decided to emigrate themselves, but their effort was frustrated when they received sponsorship for three people to resettle in Israel several weeks after Julia's birth had made them a family of four. Reluctantly, the family decided that Gorin should leave by himself—that his chances for arranging for them to follow him would be better from the outside than from within the Soviet Union. This hope proved bitterly disappointing.

Gorin left Moscow on November 5, 1972. He did not see his wife and children again until last Tuesday night—May 11, 1976—when they arrived at LaGuardia Airport en route to Baltimore. His daughter, Inna, is now 6 years old. Julia, the newborn baby he left in Moscow is 4.

The tireless struggle of the intervening years followed the pattern which has become all too tragically familiar. Soviet authorities refused to issue an emigration visa to Mrs. Gorin, a mathematician, claiming she had had access to state secrets. Her denials and protests were unavailing.

Finally, pushed to desperation, Mrs. Gorin staged a public demonstration in Moscow in June 1975 and went on a hunger strike to dramatize her plight. She was almost immediately picked up and interrogated by the KGB.

Meanwhile, Mr. Gorin, working with Sol Goldstein, Chairman of the Baltimore Committee on Soviet Jewry and with various city and state officials, was exploring every avenue to secure his family's release from the Soviet Union. As part of this effort, I met with Russian "Refusniks" when I was in Moscow last summer and the Senate Delegation of which I was a member also raised the question of her emigration with Secretary Brezhnev when we met with him then.

Last week all those efforts finally paid off. And today I am happy to be welcoming the Gorin family to Washington. I am proud to show them the capital of a country that believes people have a right to freedom. I am proud to show them the capital of their new homeland.

At this time, in addition to paying tribute to the faith and courage of Edward Gorin, his wife and children, I would like to salute the tireless humanitarianism of the Baltimore Committee for Soviet Jewry in the person of Sol Goldstein, and Eileen Yaffee, and Rabbi David Goldstein, all of whom are here today with the Gorins.

Together, we have overcome in what often seemed a hopeless situation. And once again, the Soviet Union has been obliged by the intensity of international protest to do something that in common decency they should have done 4 years ago.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, I hope that the schedule which has been distributed on the Democratic side has also been distributed on the Republican side, and if not, I will request the pages to do so. I understand it has been distributed on the Republican side.

The schedule illustrates what confronts the Senate in the remaining weeks of this session.

It is the intention of the leadership at an appropriate time to ask the Senate to turn to the consideration of the antitrust bill, Calendar No. 781, H.R. 8532, which I understand will be in some difficulty, but I shall not do that at the moment so, I can enunciate to the Senate what the program may well be for the period between now and the Memorial Day recess.

First, it is my intention to ask unanimous consent and then if that is objected to, to move to take up Calendar No. 781, H.R. 8532, an act to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The bill from the Judiciary Committee has been on the calendar since May 6 and I am calling it up at this time at the special request of the chairman of the subcommittee, the distinguished Senator from Michigan (Mr. PHILIP A. HART), who is unable to be here today for reasons well understood by his colleagues in this body.

Then I would like to turn to the consideration of Calendar No. 814, S. 3434, the military construction authorization bill, which was reported on the 13th of this month and placed on the calendar that day.

No. 3, Calendar 832, S. 3439, Foreign Military Arms Sales Act, which was reported and placed on the calendar on May 14. This is a somewhat toned-down version of the bill which the President vetoed.

Then, following that, Calendar 834, H.R. 12438, the Defense Authorization Act which, likewise, was reported and placed on the calendar on the 14th.

Whether or not we can finish with these measures before we go out, and others in addition to that, such as conference reports and bills which have little in the way of opposition, remains to be seen.

It is hoped that after we return from the Memorial Day recess, which is only, I believe, for 2 days, that the Senate at that time will be able to take up Calendar No. 685, S. 3219, the Clean Air Act, which was reported out of committee and placed on the calendar on March 29 of this year.

CERTAIN ANTITRUST ACTIONS BROUGHT BY STATE ATTORNEYS GENERAL

Mr. MANSFIELD. So with that brief explanation of what confronts us and what my intentions are, I ask unanimous consent, Mr. President, that the Senate at this time turn to the consideration of Calendar No. 781, H.R. 8532. This is the so-called Antitrust Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

Mr. HRUSKA. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HRUSKA. May I ask the majority leader is that the House-approved bill, what we know as the parens patriae bill?

Mr. MANSFIELD. That is correct, H.R. 8532, which was placed on the Calendar on the 13th of this month, but which I have been asked to take up in place of S. 1284, which was reported out of the Judiciary Committee, on which the distinguished Senator from Nebraska is a member, on May 6, 1976.

Mr. HRUSKA. Further reserving the right to object, Mr. President, may I ask the majortiy leader if he is aware, as I am sure he is, that the substance and content of that bill have been considered for an extended period of time in the Judiciary Committee of the Senate; that there is in process now the preparation, printing, delivery, and laying before the Senate of a report on one part of that bill, which is the bill for which there is a unanimous-consent request to be taken up? Is the Senator aware of that?

Mr. MANSFIELD. Yes. If the Senator would allow me, I would like to read a brief statement in connection therewith.

Mr. HRUSKA. Very well, without my losing the right to the floor.

Mr. MANSFIELD. Mr. President, let me recount the facts as to the processing of S. 1284 so my colleagues can reach their own conclusion.

On March 21, 1975—March 21, 1975—Antitrust and Monopoly Subcommittee Chairman PHILIP A. HART and Minority Leader HUGH SCOTT introduced S. 1284. The legislation was referred to the Committee on the Judiciary. The Antitrust and Monopoly Subcommittee held hearings on May 7 and 8, and June 3, 4, and 12, 1975, at which more than 30 witnesses testified. All persons suggested as witnesses by opponents of the bill and every person requesting to testify were granted that right, with two exceptions. The two who did not testify requested to testify after the witness list for the last day of hearings was released. Senator HRUSKA requested and agreed to chair an additional day of hearings for those witnesses, which was scheduled. At Senator HRUSKA's request, that hearing was twice postponed. Thereafter, at Senator HRUSKA's request and with the concurrence of the two witnesses, the hearing record was closed and their statements were received for the record.

On July 28, 1975—July 28, 1975—the Antitrust and Monopoly Subcommittee met in open executive session at which time the bill was reported without recommendation to the full Committee on the Judiciary with amendments.

At the direction of the Committee on the Judiciary, additional hearings on S. 1284, as reported by the Antitrust and Monopoly Subcommittee, were held on February 3 and March 2 and 3, 197[redacted] the purpose of taking additional testimony from persons opposing the bill. Of the nine witnesses heard, all were designated by Senators ROMAN HRUSKA and STROM THURMOND.

In sum, more than 40 witnesses were heard during 8 days of hearings; and scores of additional statements were accepted for the record.

At the insistence of the minority, full committee markup of the bill was conditioned on additional hearings, and 16 hours of markup was ordered to extend over a 30-day period. The Judiciary Committee markup commenced 7 months after the bill was reported by the Antitrust Subcommittee.

On March 4, 9, 10, 17, 18, 23, and 24, and April 6, 1976, the Committee on the Judiciary met in open executive session and marked up the bill; and on April 6, 1976, S. 1284 was ordered favorably reported to the full Senate with amendments.

On a motion to report the bill to the full Senate:

Yeas: PHILIP A. HART, KENNEDY, BAYH, BURDICK, ROBERT C. BYRD, TUNNEY, ABOUREZK, FONG, HUGH SCOTT, MATHIAS.

Nays: EASTLAND, MCCLELLAN, HRUSKA, THURMOND, WILLIAM L. SCOTT.

The majority report was circulated to the minority on April 23—April 23—and an agreement was reached that the majority and minortiy reports would be filed April 30. What is today? Ma[redacted]. Upon request of the minority, the [redacted] was delayed until May 6—a full month after the bill was ordered reported. On May 6, the minority advised that they still were not ready an authorized majority to file the report without their views although a typed draft of minority views was circulated to the majority on May 4. The committee reviewed the galleys of the minority report on May 11. It was not until May 18 that the minority authorized the return of corrected galleys to the Printing Office for final copy. That was just yesterday.

In candor, I ask the Senators to judge for themselves whether we are taking hasty and precipitous action. I ask Senators to judge whether the facts bear out those assertions or the assertions of our consumer friends that we have been too charitable and accommodating to the distinguished minority.

I submit that S. 1284 has been subject to the most painstaking scrutiny over a protracted period of time. In fact, I cannot recall another piece of legislation that has been put through such an exhaustive review process.

I thank the distinguished Senator from Nebraska for allowing me to make this statement at this time.

Mr. HRUSKA. Mr. President, I thank the majority leader for his narrative on the timetable on the legislative doing on this bill. I think the very fact of the lengthy description of it testifies to [redacted] of the principal propositions I will in time make. That is that this is such a

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the specific mandate for the Navy to make better use of their Reserves.

So what the Senator is advocating we [illegible] not only doing, we are doing vigor- [illegible] This is reflected in the committee [illegible] It is reflected [illegible] rything we [illegible] one in the last [illegible] years.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

Mr. STENNIS. Will the Chair state the amendment?

The PRESIDING OFFICER. The question before the Senate is the amendment of the Senator from Kansas (Mr. DOLE). The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURKIN (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from Michigan (Mr. HART), the Senator from Maine (Mr. HATHAWAY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PASTORE), the Senator from Alabama (Mr. SPARKMAN), the Senator from California (Mr. TUNNEY), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode [illegible] (Mr. PASTORE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Oregon (Mr. HATFIELD), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), and the Senator from N. Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 36, nays 39, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—36

[illegible]len	Goldwater	Pearson
[illegible]artlett	Hansen	Pell
[illegible]eall	Hartke	Scott, Hugh
[illegible]umpers	Helms	Scott,
Case	Hollings	William L.
Chiles	Hruska	Stafford
Curtis	Inouye	Stone
Dole	Jackson	Thurmond
Domenici	Long	Tower
Fannin	Magnuson	Weicker
Fong	Mathias	Williams
Ford	McClure	
Garn	Morgan	

NAYS—39

Abourezk	Clark	Huddleston
Bayh	Cranston	Humphrey
Bellmon	Eagleton	Javits
Biden	Eastland	Kennedy
Brooke	Glenn	Laxalt
Byrd,	Gravel	Leahy
[illegible]	Griffin	Mansfield
[illegible]	[illegible]bert C. Hart, Ga[illegible]	McClellan
[illegible]	Haskell	McGovern
Metcalf	Packwood	Stennis
Mondale	Proxmire	Stevenson
Muskie	Randolph	Talmadge
Nelson	Ribicoff	
Nunn	Schweiker	

ANSWERED "PRESENT"—1

Durkin

NOT VOTING—24

Baker	Hatfield	Percy
Bentsen	Hathaway	Roth
Brock	Johnston	Sparkman
Buckley	McGee	Stevens
Burdick	McIntyre	Symington
Church	Montoya	Taft
Culver	Moss	Tunney
Hart, Philip A.	Pastore	Young

So Mr. DOLE's amendment was rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MANSFIELD. Mr. President——

The PRESIDING OFFICER. Will the Senator suspend?

Give the Senator from Montana attention. Senators take their seats.

The Senator may proceed.

APPOINTMENTS TO SELECT COMMITTEE ON INTELLIGENCE

Mr. MANSFIELD. Mr. President, in accordance with Senate Resolution 400, 94th Congress, I submit recommendations for appointment to the Select Committee on Intelligence.

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, makes the following appointments, which the clerk will state.

The legislative clerk read as follows:

Daniel Inouye (Appropriations)—for term expiring at the end of the 98th Congress

Birch Bayh (Judiciary)—for term expiring at the end of the 95th Congress

Adlai Stevenson (At-large)—for term expiring at the end of the 97th Congress

William Hathaway (At-large)—for term expiring at the end of the 97th Congress

Walter Huddleston (At-large)—for term expiring at the end of the 96th Congress

Joseph Biden (Foreign Relations)—for tem expiring at the end of the 96th Congress

Robert Morgan (At-large)—for term expiring at the end of the 95th Congress

Gary Hart (Armed Services)—for term expiring at the end of the 95th Congress

Mr. HUGH SCOTT. Mr. President, in accordance with Senate Resolution 400, I hereby submit recommendations to the Select Committee on Intelligence.

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, makes the following appointments, which the clerk will state.

The assistant legislative clerk read as follows:

Senator CLIFFORD P. CASE, Senator STROM THURMOND, Senator HOWARD H. BAKER, JR., Senator MARK O. HATFIELD, Senator BARRY GOLDWATER, Senator ROBERT T. STAFFORD, and Senator JAKE GARN.

ORDER OF PROCEDURE—UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate, there will be no further votes on the pending business, the Defense Procurement Act. That will go over until Monday.

Between now and Saturday, we will try and clear up eligible bits of legislation on the calendar which have been cleared by the Budget Committee, which is in accord with the law.

I would like at this time to lay the pending business aside temporarily and turn to the consideration of Calendar No. 815, H.R. 12455, and in that respect I would like to make a unanimous-consent request that there be——

Mr. CURTIS. Reserving the right to object, what bill is the Senator calling up?

Mr. MANSFIELD. The Child Care Act which we have discussed before.

Mr. CURTIS. Very well.

Mr. MANSFIELD. Does the Senator have a suggestion which he might make as to how much time he would want on his amendment?

Mr. CURTIS. The junior Senator from Nebraska has an amendment. If we can arrive at a limitation on consideration of the bill that would get us out of here in a little while, I would be willing to accept 10 minutes on my amendment.

Mr. MANSFIELD. Mr. President, I ask unanimous consent there be a 10-minute limitation on the amendment to be offered by the Senator from Nebraska (Mr. CURTIS) and that there be 20 minutes on the bill.

Mr. ALLEN. Reserving the right to object, and I shall not object, before we leave the military procurement bill, I wonder if the majority leader would indulge me to the extent of allowing me not to exceed 10 minutes.

Mr. MANSFIELD. I would be delighted to, if we could get the agreement before that.

Mr. ALLEN. I have no objection to the agreement.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Reserving the right to object.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. If the Senator will yield to me.

Mr. MANSFIELD. Yes.

Mr. STENNIS. I did not understand. The military procurement bill was laid aside?

Mr. MANSFIELD. Until Monday.

Mr. STENNIS. I did not understand that. The Senator from South Dakota has been waiting here patiently for an amendment. I feel we ought to give him a chance.

Mr. MANSFIELD. Mr. President, I withdraw my request and I ask there be a time limitation of 5 minutes on the Abourezk amendment, not to exceed 5 minutes, equally divided, in the usual form; and then I would ask unanimous consent that the distinguished Senator from Alabama be recognized for—after disposition of the amendment—not to exceed 10 minutes, the distinguished Senator from New York not to exceed 5 minutes, and then the unanimous-consent request would go into effect.

Mr. FONG. Reserving the right to object. Mr. President, I have an amendment, the manager of the bill will be willing to accept it, I ask that I be given

sufficient time to present that amendment.

Mr. MANSFIELD. How much time?

Mr. FONG. Two minutes.

Mr. STENNIS. One minute.

Mr. MANSFIELD. Not to exceed 5 minutes.

Mr. KENNEDY. Reserving the right to object, and I will not.

Mr. President, I hope as part of the unanimous-consent request that we can lay down my amendment.

Mr. MANSFIELD. Absolutely.

Mr. KENNEDY. So it would be defending the measure.

Mr. MANSFIELD. That was understood.

Mr. KENNEDY. For Monday?

Mr. MANSFIELD. That the Kennedy amendment would be laid down and be the pending business on Monday.

Mr. STENNIS. No agreement on time?

Mr. MANSFIELD. No.

Mr. KENNEDY. Could I just submit it then?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the disposition of the Fong and Abourezk amendment, the Kennedy amendment be considered as the pending business, it will not be taken up until Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Everything else?

The PRESIDING OFFICER. Everything else is agreed to.

The Senator from South Dakota.

DEPARTMENT OF DEFENSE APPROPRIATIONS AUTHORIZATION ACT, 1977

The Senate continued with the consideration of the bill (H.R. 12438) to authorize appropriations during the fiscal year 1977, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes.

Mr. ABOUREZK. Mr. President, I have an amendment at the desk and I ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add a new section as follows:

"SEC. . (a) Section 3732 of the Revised Statutes (41 U.S.C. 11) is amended by—

(1) striking out in subsection (a) the following: ", except in the War and Navy Departments, for clothing, subsistence, forage, fuel, quarters, or transportation, which however, shall not exceed the necessities of the current year";

(2) striking out the subsection designation "(a)" at the beginning of such subsection; and

(3) striking out subsection (b) of such section.

"(b) The first proviso contained in the paragraph entitled "Medical and Hospital Department", under the heading "MEDICAL DEPARTMENT", in the Act entitled "An act making appropriations for the support of the Army for the fiscal year ending June thirtieth, nineteen hundred and seven" approved June 12, 1907 (34 Stat. 240), is amended by striking out the following: ", except in the War and Navy Departments, for clothing, subsistence, forage, fuel, quarters, transportation, or medical and hospital supplies, which however, shall not, exceed the necessities of the current year"."

Mr. ABOUREZK. Mr. President, I am again today submitting an amendment to the annual defense procurement bill that would terminate the authority for the Department of Defense to transfer funds pursuant to the Feed and Forage Act. This law has been on the books for more than a century. It is a law that is almost completely unknown to the public or Members of Congress, but fully known to the Department of Defense.

With the authority of this law, the Department of Defense has been able to skirt the normal appropriations process and obligate hundreds of millions of dollars. They make the decision; we pay for it.

Under the authority given to the Defense Department by the Feed and Forage Act, the Pentagon is allowed to obligate the money first, without any participation by Congress for an appropriation to liquidate the obligation. But the obligation is a legal and binding commitment on the funds of the United States, and the Congress has no choice but to appropriate the money. In fact, the Pentagon need not always come to Congress. Because of its ability to transfer funds, it often liquidates these obligations through transfers.

The Feed and Forage Act—also known as Revised Statute 3732, or 41 U.S.C. 11—allows the Departments of the Army, Navy, and Air Force to make contracts and purchases—in advance of appropriations—for certain enumerated supplies. This is permanent authority, available each year.

Basically, the authority is open ended, with the only restriction being that the contracts "not exceed the necessities of the current year."

I believe a brief review of the legislative history of this amendment is in order. I first offered the amendment in 1974. At that time, the distinguished chairman of the Armed Services Committee indicated that he had not had an opportunity to review the amendment, and its impact, and requested that the amendment be referred to his committee. I, therefore, withdraw my amendment.

Last year, I introduced the identical amendment. Despite the fact that no hearings were held by the Armed Services Committee on the substance of the amendment, the committee had done its work and agreed to the amendment. Unfortunately, when the issue got to conference, the House Armed Services Committee could not accept the amendment because [illegible] had an opportunity to study [illegible].

In February, I wrote to the distinguished chairman of the House Armed Services Committee, Mr. PRICE, urging his committee to review the ramifications of the Feed and Forage Act during their hearings on this proposed budget.

In my letter to Chairman PRICE, I included several attachments which I believe would be beneficial to my colleagues in this year's debate.

I ask unanimous consent to have the following documents printed in the RECORD.

First, a copy of my letter to Chairman PRICE;

Second, a memorandum on the Feed and Forage Act I prepared last year for Senator STENNIS and the Senate Conferees, and;

Third, a 1972 letter from the ASD—Comptroller—detailing the use of the feed and forage law to that point. To my knowledge, the authority has not been used since then.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEBRUARY 16, 1976.

HON. MELVIN PRICE,
Chairman, Committee on Armed Services, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Last year, during the Senate debate on the military procurement bill, I offered an amendment to repeal 41 U.S.C. 11, the so-called "Feed and Forage Act. As you know, the act provides authority for the military departments to contract for certain items during the "current year" without regard to prior authorization or appropriation.

As noted in the conference report on the 1976 bill, the Senate agreed to that amendment because the provisions of the act were designed to allow for emergency needs of the military departments at a time when rapid response from the Congress may not have been available in emergencies. The Senate conferees maintained that the provisions are no longer required by law.

The House, however, had not had an opportunity to study the uses of the law and the ramifications of repeal. The Senate withdrew from its amendment.

I would respectfully urge your committee to investigate the uses of the Feed and Forage law, and the possible ramifications if it is repealed while Defense witnesses are testifying on the proposed FY 1977 budget. Hopefully, the Senate Armed Services Committee will again agree to this amendment, and this antiquated law can be repealed.

For your information, I am enclosing several documents which may be of assistance to you and your committee in assessing the use and vitality of this law. The first is a brief memorandum on the law prepared by me at the request of Chairman Stennis.

The second item is a 1972 letter from the ASD (Comptroller) detailing the use of the Feed and Forage law to that point. The final document is a xerox of my remarks upon the introduction of an identical amendment in 1974. Of course, I would be happy to provide you with any additional information you may deem desirable.

these questions, and now is the time for the record to be set straight.

If the Commission can demonstrate that inadequacies in existing law have impaired its ability to execute its duties and responsibilities in a timely manner, then our committee should work to determine and enact the appropriate legislative remedies.

But if it is determined that the Commission is guilty of sheer indifference or the simple inability to carry out its functions in accord with the public interest, then we should be prepared to recommend to the President that he request the resignation of the Commission members.

Let the record show that I clearly recognize the procedures which this regulatory body must follow are indeed time consuming and complex. Yet at the same time millions of Americans are now suffering the extreme and very real hardships of a natural gas crisis.

Every aspect of the events leading to this crisis must be examined in depth, and if Government has been an accessory, then we owe it to ourselves and the people we represent to take whatever action necessary to insure that the problems of this winter cannot and do not occur again.

I thank the Chair.

[Disturbance in the visitors galleries.]

The DEPUTY PRESIDENT pro tempore. There will be no demonstration in the galleries. I can well understand how the Senator's remarks are appreciated.

APPOINTMENTS BY THE VICE PRESIDENT

The DEPUTY PRESIDENT pro tempore. The Chair, on behalf of the Vice President, pursuant to the order of the Senate of January 24, 1901, as modified February 4, 1977, appoints the Senator from California (Mr. HAYAKAWA) to read Washington's Farewell Address on Monday, February 21, 1977.

The DEPUTY PRESIDENT pro tempore. The Chair, on behalf of the Vice President, in accordance with Senate Resolution 281, 90th Congress, as amended and supplemented, appoints the Senator from Vermont (Mr. LEAHY) and the Senator from Nebraska (Mr. ZORINSKY) to the Select Committee on Nutrition and Human Needs.

The Chair, on behalf of the Vice President, in accordance with Public Law 79–585, appoints the Senator from Washington (Mr. JACKSON) as vice chairman of the Joint Committee on Atomic Energy.

The Chair, on behalf of the Vice President, in accordance with Senate Resolution 4, 95th Congress, appoints the following Senators to the Select Committee on Indian Affairs: the Senator from South Dakota (Mr. ABOUREZK), chairman; the Senator from Ohio (Mr. METZENBAUM); and the Senator from Montana (Mr. MELCHER).

The Chair, on behalf of the President pro tempore, in accordance with provisions of Senate Resolution 400, 94th Congress, and Senate Resolution 4, 95th Congress, appoints the Senator from New York (Mr. MOYNIHAN) as an at-large member of the Select Committee on Intelligence, for a term expiring at the end of the 97th Congress.

UNANIMOUS-CONSENT REQUEST

The DEPUTY PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I am about to submit a resolution which sets forth a number of Senators to be appointed to the standing committees of the Senate.

I ask unanimous consent that no nongermane amendment be in order during the consideration of the resolution or the reconsideration thereof.

The DEPUTY PRESIDENT pro tempore. Is there objection?

Mr. ALLEN. Reserving the right to object, and it is not my purpose to object, on yesterday the Senator from Alabama had 15 minutes set aside during which he might address the Senate. He was not able to use that time because of conflict with the work of the Democratic Conference. I would like to ask unanimous consent that I have that 15 minutes at this time, in which I might state further the basis for my reservation of my objection.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

I wonder if the Senator would yield to the Senator from Montana.

The DEPUTY PRESIDENT pro tempore. Will the Senator from West Virginia clarify that? Is there an objection to the request of the Senator from Alabama?

Mr. ROBERT C. BYRD. No, no objection.

Mr. METCALF. Mr. President, I do not propose to object to the request. I would be delighted to hear the Senator from Alabama and take up the problem I want afterward.

Mr. ALLEN. I am delighted to yield to the Senator.

The DEPUTY PRESIDENT pro tempore. The Senator from Montana is recognized.

ELECTION OF COMMITTEE CHAIRMEN AND MEMBERS

Mr. METCALF. Mr. President, when these resolutions have been brought forth under rule XXIV, it has been my practice to propound some parliamentary inquiries.

In the first place, it has been my position that one of the best and one of the most democratic rules that we have is the fact that the entire Senate elects the chairmen of committees by a majority vote, and the entire Senate elects members of committees by pluralities. For that purpose, may I propound a parliamentary inquiry?

The DEPUTY PRESIDENT pro tempore. The Senator will state it.

Mr. METCALF. Are these resolutions which are being brought up open to amendment for changes in chairmen or changes in membership to committees?

The DEPUTY PRESIDENT pro tempore. The resolutions, as presented, are amendable, subject to change if so desired.

Mr. METCALF. As I understand it, any Member of the Senate can offer as an amendment a suggestion for another Member of the Senate—or himself, if he wishes—to be on any committee, as an amendment to such resolution?

The DEPUTY PRESIDENT pro tempore. The Senator is correct.

Mr. METCALF. As I understand it, any Member of the Senate, despite what has happened in the conferences or caucuses, can bring up and move or suggest an amendment that anybody be chairman of a committee.

The DEPUTY PRESIDENT pro tempore. The Senator is correct. The caucus is but a recommendation.

Mr. METCALF. I appreciate that.

Mr. ALLEN. Will the Senator yield?

Mr. METCALF. The Senator yielded to me, but I yield back.

Mr. ALLEN. The Senator is making the point, then, that the Senate itself elects the chairmen and not the respective caucuses, is that right?

Mr. METCALF. Yes. The point I am making is that we have the most democratic rule that I can imagine, that the Senate, when it organizes every Congress, the Senate itself, elects the chairmen, and the newest representative on the minority side, if he can get the votes, could be a chairman, I believe. The Senate also, by a plurality vote, elects members to the committee.

Mr. ALLEN. So the Senate is the final arbiter of who shall be the chairmen and who shall make up the committees.

Mr. METCALF. I ask the Presiding Officer if that is correct.

The DEPUTY PRESIDENT pro tempore. To the question as posed, the answer is in the affirmative. The Senate is the ultimate arbiter as to members of committees. The recommendations are brought in by the majority and the minority leaders. The Senate works its will.

Mr. METCALF. I am delighted that the new Presiding Officer has made such an erudite judgment, a Portia come to life.

The DEPUTY PRESIDENT pro tempore. This is a recycled Presiding Officer.

Mr. ALLEN. Mr. President, I ask unanimous consent that the time used by the Senator from Montana not be charged against my 15 minutes.

The DEPUTY PRESIDENT pro tempore. Without objection, the Senator from Alabama is recognized for 15 minutes.

THE PROPOSED PAY RAISE

Mr. ALLEN. Mr. President, I, along with some 12 other Members of the Senate, have tried very hard indeed to bring to a vote of the Senate the matter of the pay raise proposed, first, by the President's Pay Commission, and then by President Ford. We have not been able to get the issue to a vote. First, Mr. President, Senate Resolution No. 39 was introduced. I ask unanimous consent

that at this time, a copy of Senate Resolution 39 be printed in the RECORD.

There being no objection, the Senate resolution was ordered to be printed in the RECORD, as follows:

S. RES. 39

Resolved, That the Senate disapproves all of the recommendations of the President with respect to rates of pay which were transmitted to the Congress pursuant to section 225(h) of the Federal Salary Act of 1967 on January 17, 1977.

Mr. ALLEN. One way of getting quick action on a resolution is to ask unanimous consent for its immediate consideration at the time of introduction. If objection is made, it goes on a portion of the printed calendar and is brought over under the rule, so that on the next legislative day, the Senate, after the completion of the morning business and in the morning hour, consisting of 2 hours, does have a right to consider matters brought over under the rule. But it takes an adjournment of the Senate to create a morning hour. We did not have any adjournment of the Senate for a period of some 2 weeks. Inasmuch as we were unable to get action on that resolution, another resolution, Senate Resolution No. 50, was introduced by the same cosponsors.

I ask unanimous consent to have it printed at this point in the RECORD

There being no objection the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 50

Resolved, That the Senate disapproves all of the recommendations of the President with respect to rates of pay which were transmitted to the Congress pursuant to section 225(h) of the Federal Salary Act of 1967 on January 17, 1977.

Mr. ALLEN. That resolution went to the Committee on Post Office and Civil Service. It has remained buried there until the present time.

Inasmuch as we were unable to get a vote on those resolutions, the same sponsors introduced amendment No. 24 to Senate Resolution 4, the committee reorganization resolution. The rule does not require germaneness, the sponsors of this amendment felt sure the amendment would come to a vote, either on a procedural vote or an up-or-down vote.

I ask unanimous consent that amendment No. 24, star print, with sponsors names shown be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 24 (STAR PRINT) TO S. RES. 4

TITLE —

Be it further resolved that the Senate disapproves all the recommendations of the President with respect to rates of pay which were transmitted to the Congress pursuant to section 225(h) of the Federal Salary Act of 1967 (81 Stat. 644), on January 17, 1977.

Mr. ALLEN. This amendment No. 24 would have disapproved of the pay increase if it had been adopted. But the amendment was tabled by a 56-to-42 vote. I might say parenthetically, Mr. President, that I object very strongly to the 1967 act. Here on the floor, in concert with other Senators, we have tried to repeal that Presidential Pay Commission Act, which allows the Members of Congress to obtain raises for themselves and allows the top people in the other branches of Government to obtain raises in their compensation without actually voting those raises.

How in the world could that remarkable set of facts come about? The law provides that the Presidential Pay Commission makes recommendations to the President as to the pay schedule. Mr. Peterson, former Secretary of Commerce, and now managing partner, I believe, of Lehman Brothers in New York, where $200,000 a year salaries are quite commonplace, headed this Commission that recommended these pay increases for people in the top echelon of Government. Then the President, then President Gerald Ford, had a right to modify those recommendations and submit them to Congress. Then, under this law, one House of Congress must disapprove or modify or change in some respect the President's recommendations based on the Presidential Pay Commission's recommendations. They must be disapproved within 30 days, or else they go into effect without a vote by Congress. That is the reason we have been trying to get a vote.

It is apparent that the House has no intention of voting. I had been hopeful that we would have a vote here in the Senate, but this is the last day of this period during which disapproval must take place if it is to take place. So, if something is not done today, then the pay raises will go into effect.

The resolutions before us have to do with the committee structure and the naming of the committees. It is quite obvious that if an amendment were sought to be added to these it would never come to a vote today, because I have in mind we are not going to be in session very long. So I am not going to raise any objection to the request that amendments must be germane. But I do want to stress the point that I believe that issue should have come up for a vote; we should have had an up and down vote here, in the Senate, on this important issue. I do not feel that Congress, by hiding from this issue, should allow these raises to go into effect.

Now, the Presidential Pay Commission recommended, as a part of these pay increases, that both Houses of Congress adopt strict rules of ethics or conduct by the various Members. I think that is very fine, and certainly, I approve of that. But I think it is a shame that we even have to have a code of ethics. I think every Member of the House and every Member of the Senate ought to have lofty concepts about his duties and responsibilities and his conduct.

It is a sad state of affairs when men who make the Nation's laws have to set up standards of conduct they must go by.

But I am hopeful that on this raise, which is almost certain to go into effect, Congress will not fall down on the other half of the recommendations of the Presidential Pay Commission that a strong standard of conduct for both Houses be set up.

I am, indeed, glad that the distinguished majority leader and the distinguished minority leader introduced a joint resolution setting up an ad hoc committee to formulate in the form of legislation a code of ethics for the Senate. That committee is headed by the very able senior Senator from Wisconsin (Mr. NELSON). I believe it is mandated to report back, possibly by the 1st of March, soon after the end of the recess, at any rate, and the legislation they report back will be the pending business in the Senate.

I am hopeful we will establish a strong standard of conduct for the Members of the Senate—and both Houses are going at it separately. Whether that is done that way, or by a single standard, is not too important.

I hope our standards here will be even higher and stricter than are the House provisions which seem to be in the making.

In this connection, Mr. President, this morning I received a letter from Mrs. Adeline F. Kahn, acting coordinator, Congressional District 6, of Common Cause, urging that I make a strong statement in behalf of the establishment of a strong code of conduct for Congress. Certainly, I am delighted to make that statement.

My views in this connection have had wide circulation already. I file annually a financial statement, I accept no honoraria or expense money of any sort, have no outside income from personal services, and I hope that we will have a strong ban on outside income. I hope that honoraria will be banned altogether.

I believe the House is providing for some 15 percent of the regular salary as a limit on outside personal services income. I think that is too high. It ought to be eliminated altogether.

But I do favor provision for full disclosure of personal financial holdings. I do favor a ban or strict limit on outside personal income, and I hope for an absolute ban rather than a strict limit, a ban on gifts from lobbyists, a ban on unofficial office accounts, and a ban on privately financed materials being sent by frank.

Mr. President, I ask unanimous consent that a copy of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMON CAUSE—ALABAMA,
Birmingham, Ala.

Hon. JAMES ALLEN,
New Senate Office Building,
Washington, D.C.

DEAR MR. ALLEN: This letter is being written to urge that you again make a public statement showing your whole-hearted support and commitment to a strong code of conduct for Congress. Such a statement should be made prior to the new pay raise which will go into effect on February 17 despite your valiant attempt to do away with it.

We urge that in such a statement by you you spell out areas where legislation is especially needed such as: provisions for full disclosure of personal financial holdings; a ban or strict limit on outside earned income; a ban on gifts from lobbyists; a ban on unofficial office accounts and a ban on

Senate Establishes Intelligence Panel

Twenty years after related legislation was first considered, the Senate May 19 voted to establish a permanent Select Committee on Intelligence with legislative and budgetary authority over the CIA and other federal intelligence agencies. The vote was 72-22.

Voting for the proposal (S Res 400) were 52 Democrats and 20 Republicans; 7 Democrats and 15 Republicans opposed it. As finally realized, the committee was granted far more power than one Mike Mansfield (D Mont.) had proposed in 1956. *(Vote 177, p. 1317) (1956 Almanac p. 509)*

In the key vote on the resolution, the Senate turned down an amendment drafted by John G. Tower (R Texas) and John C. Stennis (D Miss.) that would have stripped the new committee of its legislative and budgetary authority over intelligence components of the Defense Department.

Despite the heated controversy that surrounded the effort to establish it, the new committee won approval only three months after the special intelligence investigating panel, set up by the Senate in 1975, recommended that a strong oversight committee be created to assure that the intelligence community did not in the future infringe on the liberties of the American people.

The 15-month investigation, headed by Frank Church (D Idaho), had charted a long history of abuses by the CIA, FBI and other agencies, that included disclosures of illegal electronic surveillance, mail openings and assassination plots against foreign leaders. *(Weekly Report pp. 1111, 1019*

The House in January refused to authorize the publication of its special intelligence committee's final report. This dispute has seriously jeopardized attempts to set up a similar intelligence panel. *(Weekly Report p. 203)*

Members of the 15-member committee were appointed May 20 by Majority Leader Mansfield and Minority Leader Hugh Scott (R Pa.). They were Democrats Daniel K. Inouye (Hawaii), Birch Bayh (Ind.), Adlai E. Stevenson (Ill.), William D. Hathaway (Maine), Walter (Dee) Huddleston (Ky.), Joe Biden Jr. (Del.), Robert B. Morgan (N.C.) and Gary W. Hart (Colo.), and Republicans Clifford P. Case (N.J.), Mark O. Hatfield (Ore.), Barry Goldwater (Ariz.), Howard H. Baker Jr. (Tenn.), Robert T. Stafford (Vt.), Strom Thurmond (S.C.) and Jake Garn (Utah).

Cannon Substitute

As approved by the Senate, the resolution was the product of a compromise that had been worked out informally May 10 and 11 by Mansfield and other senators. It was introduced May 12 by Howard W. Cannon (D Nev.) and 28 cosponsors as a substitute for a version of S Res 400 reported April 29 by the Rules Committee.

The Rules version merely created another panel to investigate intelligence abuses and was strongly opposed by many in the Senate, who argued that this already had been accomplished by the Church inquiry. A new committee with tough legislative responsibilities as well as an oversight mandate now was needed, they said.

The Government Operations Committee March 1 had reported still another version of S Res 400. That panel's recommendations, however, were unacceptable to many conservatives, who pointed out that the proposed permanent committee would all but shut out other panels, particularly Armed Services, that traditionally had jurisdiction over intelligence matters.

Although the Cannon substitute was widely supported, it still was not acceptable to Stennis, Tower, Barry Goldwater (R Ariz.) and others, who insisted that the new panel should have no part in preparing the budgets and legislation of the Defense Intelligence Agency, the National Security Agency and related military intelligence components. All three were Armed Services members. They argued unsuccessfully that S Res 400 "would increase the potential for disclosure."

Abraham Ribicoff (D Conn.), chairman of the Government Operations Committee, said at the outset of the debate that the Senate should not allow "jurisdictions of its own committees to overshadow the national interest." Many of the supporters of the new committee contended that Stennis' Armed Services Committee had not been effective in monitoring intelligence abuses.

Highlights

The committee was given exclusive legislative and budget authorization authority over the CIA, but jurisdiction over the intelligence components of the FBI and the Defense Department will be shared with the Judiciary and Armed Services Committees respectively.

In the case of shared jurisdiction, legislation approved by one panel would have to be referred to the other and then reported to the Senate floor within 30 days.

The new committee also was given authority to declassify sensitive information, but if the President objected to any disclosure, the matter would be referred to the full Senate for its decision.

Tower-Stennis Proposal

Mustering the support of 29 other senators, Tower and Stennis insisted that unless the Armed Services Committee

John C. Stennis

John G. Tower

S Res 400 Provisions

- Established a 15-member Select Committee on Intelligence Activities composed of eight Democrats and seven Republicans selected by the Senate Majority and Minority Leaders. Required that two members be chosen from each of four committees—Appropriations, Armed Services, Judiciary and Foreign Relations; the remaining seven members were to be selected at large.
- Limited a member's term of service on the select committee to eight years and provided for rotation of a third of the panel members with each Congress.
- Gave the panel exclusive jurisdiction over legislation dealing with the CIA. But jurisdiction over the FBI, Defense Department intelligence agencies and all other federal intelligence agencies was to be shared by the committee with the appropriate Senate standing committeee, in the case of the FBI, for example, the Judiciary Coimmittee. Legislation reported by either the select committee or one of the four standing committees must be referred to the other, which would then have 30 days to report the bill to the full Senate.
- Required the select committee to authorize the budgets of the intelligence agencies annually. The CIA authorization would be handled exclusively by the panel and reported directly to the Senate, and authorization measures for the defense intelligence components, the FBI and other federal intelligence agencies would be considered by both the select committee and the appropriate standing committee. Measures reported by one committee will be referred to the other, with a 30-day time limitation for consideration.
- Allowed the intelligence committee to release classified material to the public if a majority voted to disclose the information and the President raised no objections within five days of the panel's decision. If the President objected in writing, the committee could refer the matter to the full Senate, which could take one of three actions: 1) approve disclosure of all or any parts of the material, 2) disapprove disclosure or 3) refer the matter back to the select committee, which could then decide whether or not to release the information.
- Prohibited disclosure of classified material by a member or staff assistant except by the procedure described above or in a closed session of the Senate.
- Gave the Senate Select Committee on Standards and Conduct authority to investigate any alleged disclosure of intelligence information in violation of the committee's rules and to report to the Senate any allegations found to be substantiated.
- Stated as the sense of the Senate that the intelligence agencies should keep the committee fully and currently informed about its activities, but the panel would not have veto power over an agency's activities.
- Authorized the select committee to investigate any matter within its jurisdiction, and gave the panel subpoena power.
- Authorized the committee to study the quality of U.S. intelligence, the desirability of changing any laws relating to intelligence matters, the need for establishing a joint Senate-House intelligence committee. The panel could also recommend whether the disclosure of secret intelligence funds was in the public interest.

was given exclusive legislative jurisdiction over the defen intelligence agencies, the nation's security would be jeopardized.

The Cannon substitute, they said, would cause a "proliferation of involvement by Senate committees" and staff in defense matters, and this would lead to "greater disclosures" of secret projects and military spending figures.

The advantage of their amendment, Stennis said, was that it would 1) keep legislative jurisdiction over military intelligence in Armed Services, but give the new committee oversight and investigative duties, 2) eliminate the requirement for a separate authorization for military intelligence funds and, 3) avoid a report to the Budget Committee by the new panel on its estimated cost of military intelligence operations.

"There is a vast potential for mischief here," said Tower. "The popular fear in this country is not that the CIA and FBI are going to invade their rights.... The preponderance of American people believe, I feel, that we have disclosed too much, not too little, and the dangerous potential is here...."

But many of the 63 opponents of the amendment asserted that it simply would gut the compromise resolution. About 80 to 90 per cent of the intelligence community's funds would be outside the jurisdiction of the select committee, they said, and giving the panel only an oversight role would be of little value. "Oversight without legislative authority would be toothless oversight," Walter (Dee) Huddleston (D Ky.) told the Senate.

Asserting that the resolution "doesn't take anything away from the Armed Services Committee," Sen. Chur argued that if the amendment were approved, "it gets us right back to the problem we're trying to solve...piecemeal jurisdiction among several committees, no one of which can do the job."

Voting for the amendment were 20 Republicans (a majority) and 11 Democrats, 10 of whom were from the South; 15 Republicans and 48 Democrats voted against it. *(Vote 175, p. 1317)*

After the Tower-Stennis amendment was rejected, the Senate approved the Cannon substitute to H Res 400 by an 87-7 roll call. *(Vote 176, p. 1317)*

The resolution itself, as amended, then was adopted.

Other Amendments

In addition to the Tower-Stennis amendment, the Senate considered 11 other amendments during the four days of action on S Res 400; nine were adopted, almost all of which were noncontroversial, and two were rejected.

May 13. By voice vote the Senate approved an amendment offered by Charles H. Percy (R Ill.) to reduce from nine to eight years the length of time a senator could serve on the new committee. The purpose of the amendment was to align service periods on the new panel with the beginning of each new Congress.

Also approved by voice vote was an amendment proposed by Walter (Dee) Huddleston (D Ky.) perfecting the provision giving the Senate Standards and Conduct Committee authority to investigate unauthorized intelligence disclosures. The Kentucky senator said the amendment would provide a certain amount of flexibility so that "unsubstantiated or frivolous matters" would not have to be referred to the full Senate. The amendment required the committee to report only those allegations "which it finds to be substantiated."

By a 75-17 vote, the Senate approved a modification to [illegible]substitute, which Cannon introduced himself, that [illegible]ced from 17 to 15 the number of members on the intelligence committee.

Cannon emphasized that a membership of 17 "tends to make a somewhat unwieldy committee, but Robert Morgan (D N.C.) and other opponents of the move argued that eight members, or a majority under the modification, would come from the four committees—Armed Services, Appropriations, Foreign Relations and Judiciary—that were supposed to provide oversight "when the intelligence abuses took place." Ten Democrats and seven Republicans opposed the change. *(Vote 172, Weekly Report p. 1236)*

A fourth amendment offered May 13, by James Abourezk (D S.D.), would have given the committee more authority to disclose classified information, but it was tabled on a 77-13 roll call. *(Vote 173, Weekly Report p. 1236)*

Abourezk said the disclosure language in the substitute was ambiguous and did not allow outvoted members of the panel a chance to appeal to the full Senate a vote by a majority of the committee blocking a move to disclose intelligence information. But Mansfield and others suggested that the proposal was too controversial. "I do not think this amendment has any place in this compromise, which a lot of us have worked awfully hard to achieve and to bring about the greatest degree of unanimity," Mansfield told the Senate.

May 17. On voice votes, the Senate adopted three noncontroversial amendments. These were by:

- Robert Taft Jr. (R Ohio), to delete language requiring the proposed committee to make available to the public annual intelligence reports of the CIA, the Defense [illegible]artment, the State Department and the FBI. The committee, however, could release an unclassified version of the agencies' reports if it chose, under his amendment.
- By James B. Allen (D Ala.), to provide that the federal intelligence agencies would not be required to disclose in their annual reports the methods they used in gathering intelligence.
- By Taft, to require that the new intelligence panel refer any matter before it—except that relating to the CIA or the Director of Central Intelligence—to the appropriate standing committee. Taft pointed out that under the proposed substitute, which only called for referral of proposed legisltion, the new committee could "leave the Armed Services Committee in the dark" on issues it chose not to refer.

May 18. By voice vote, the Senate adopted an amendment by Alan Cranston (D Calif.) requiring the President to "personally notify the select committee in writing" if he objected to the disclosure of any classified information the panel intended to make public.

Also by voice vote, the Senate approved an amendment by Robert P. Griffin (R Mich.) clarifying language relating to notification by the President of his objections to disclosure of classified material. The amendment called for the President to certify that a threat to national security was "of such gravity that it outweighs any public interest in disclosure."

By a 38-50 roll call, the Senate rejected a Taft amendment that would have prevented a senator from serving on the intelligence panel as well as on a "B" committee, beginning with the 96th Congress. (Under Senate rules, "B" committees are: District of Columbia, Post Office and Civil Service, Rules and Administration, Veterans' Affairs as well as the special, joint and select committees. *(Vote 174, p. 1317)*

Taft argued that the amendment was necessary because some members "with the greatest abilities" might choose not to serve on the intelligence panel if they found other committee work too time consuming. But Ribicoff opposed the measure, saying that it would "make it more difficult to find a suitable cross-section of the Senate to serve on the committee." He also pointed out that under Taft's proposal senators would have to give up their seniority on another "B" committee for eight years to serve on the new panel. (The intelligence committee would be designated a "B" committee under S Res 400.)

May 19. Before rejecting the Tower-Stennis amendment, the Senate by voice vote approved a proposal offered by Sam Nunn (D Ga.) that clarified the procedure for disclosing classified information. The amendment prohibited the committee from revealing any information the President wanted kept secret until the full Senate gave its consent.

—By David M. Maxfield

Armed Services Hearing:

Pentagon Plan for Settling Shipyard Claims Criticized

The House Armed Services Committee has backed away from an immediate challenge of a Defense Department plan to settle contract claims totaling $1.8-billion brought against the Navy by four private shipyards. Under the Pentagon proposal, the government would pay the firms between $500-million and $700-million in return for dropping the claims.

The shipyards have argued that 11 contracts with the Navy had proved ruinously expensive because of the severity of the inflation over the past few years, which was unforeseen when the contracts were signed. Some of the contractors have threatened to stop work on Navy ships already under construction and to refuse to bid on any more contracts.

Under an emergency procedure (PL 85-804) invoked by Deputy Defense Secretary William P. Clements Jr. to resolve the dispute, the administration could rewrite any procurement contract if that action would "facilitate the national defense." If such a revision would cost the government more then $25-million, either house of Congress could block the proposed settlement by a majority vote under PL 85-804.

When Secretary of the Navy J. William Middendorf II presented the proposal to the House committee May 10,

William P. Clements Jr.

Charles E. Bennett

Differ on Shipbuilders' Claims Settlement